973.

SUPREME COURT OF THE UNITED STATES.

No. 230.

ALEXANDER CROSS, WILLIAM L. HOBSON, AND WILLIAM HOOPER, TRADING UNDER THE NAME AND STYLE OF CROSS, HOBSON & CO., PLAINTIFFS IN ERROR,

vs.

EDWARD H. HARRISON.

IN ERROR TO THE CIRCUIT COURT, U. S., FOR THE SOUTHERN DISTRICT OF NEW YORK.

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GIDEON, print.

UNITED STATES OF AMERICA.

The President of the United States of America, to the judge of the circuit court of the United States, for the southern district of New York, greeting:

[SEAL.]

Because, in the record and proceedings, as also in the rendition of the judgment of a plea, which is in the said circuit court before you, or some of you, between Alexander Cross, William M. Hobson, and William Hooper, citizens of California, and Edward H. Harrison, a citizen of the State of New York, a manifest error hath happened, to the great damage of the said Alexander Cross, William L. Hobson, and William Hooper, as is said, and as appears by his complaint; we being willing that such error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the justices of the Supreme Court of the United States, at the Capitol, in the city of Washington, together with this writ, so that you have the same at the said place, before the justices aforesaid, forthwith; that the record and proceedings aforesaid being inspected, the said justices of the Supreme Court may cause further to be done therein, to correct that error, what of right and according to the law and custom of the United States ought to be done.

Witness the honorable Roger B. Taney, chief justice of the Supreme Court of the United States, this day of February, in the year of our Lord one thousand eight hundred and fifty-two, and of the independence of the United States the seventy-sixth.

JOHN W. NELSON,
Clerk of the circuit court of the U. S. of America, for the southern district of N. York, in the second circuit.

The answer of the judges of the circuit court of the United States, for the southern district of New York, in the second circuit, in the within writ mentioned.

The record and proceedings, whereof mention is within made, with all things concerning the same, are hereby respectfully certified to the justices of the Supreme Court of the United States within mentioned, in a certain schedule to this writ annexed, as within it is commanded.

Witness the honorable Roger B. Taney, chief justice of the Supreme Court of the United States, this nineteenth day of February, in the year of our Lord one thousand eight hundred and fifty-two, and of the independence of the United States the seventy-sixth.

[SEAL.]

JOHN W. NELSON, *Clerk.*

By the honorable Samuel R. Betts, one of the judges of the circuit court of the United States, for the southern district of New York, in the second circuit, to Edward H. Harrison.

Whereas Alexander Cross, William L. Hobson, and William Hooper lately issued out of the Supreme Court of the United States a writ of error, directed to the judge of the circuit court of the United States, for the southern district of New York, in the second circuit, stating that, in the record and proceedings, as also in the rendition of the judgment of a plea in the said court, before the judge thereof, between Alexander Cross, William L. Hobson, and William Hooper, citizens of the State of California, plaintiffs, and Edward H. Harrison, a citizen of the State of New York, defendant, a manifest error hath happened to the great damage of the said Alexander Cross, William L. Hobson, and William Hooper; and whereas, for the correction of that error in due manner, the said writ has been issued, returnable at the next stated Supreme Court of the United States, to be held at the Capitol, at the city of Washington, forthwith; you are therefore hereby cited to appear before the said Supreme Court, at the city of Washington, forthwith, to do and receive what may appertain to justice to be done in the premises.

Given under my hand, at the city of New York, in the southern district of New York, in the second circuit, the nineteenth day of February, in the year of our Lord one thousand eight hundred and fifty-two, and of the independence of the United States the seventy-sixth.

SAM. R. BETTS.

I admit due service of foregoing citation.

J. PRESCOTT HALL,
Attorney for defendant.

United States circuit court, for the southern district of New York, in the second circuit.

Pleas before the justices of the circuit court of the United States, within and for the southern district of New York, at the City Hall, in the city of New York, of the term of October, in the year of our Lord one thousand eight hundred and fifty-one, to wit, the fifth day of January, in the year one thousand eight hundred and fifty-two, as yet of said term.

Witness, honorable Samuel Nelson, justice.

JOHN W. NELSON, *Clerk.*

SOUTHERN DISTRICT OF NEW YORK, *ss.*

Be it remembered, that, on the first Monday of April, in this same term, before the justices of the circuit court of the United States, for the southern district of New York, in the second circuit, at the City Hall, in the city of New York, came Alexander Cross, William L.

Hobson, and William Hooper, citizens of the State of California, in the United States of America, merchants, in company, trading under the name and style of Cross, Hobson & Co., at the city of San Francisco, in the State of California aforesaid, plaintiffs in this suit, by John S. McCulloh, their attorney and counsel, and brought into the said court, before the aforesaid justice thereof now here, their certain declaration against Edward H. Harrison, a citizen of the State of New York, defendant in this suit, being in the custody, &c., of a plea of trespass on the case upon promises.

Which said declaration is in the words and figures following, that is to say:

Alexander Cross, William L. Hobson, and William Hooper, citizens of the State of California, in the United States of America, merchants, in company, trading under the name and style of Cross, Hobson & Co., at the city of San Francisco, in the State of California aforesaid, plaintiffs in this suit, by John S. McCulloh, their attorney, come and complain of Edward H. Harrison, a citizen of the State of New York, the defendant in this suit, being in custody of a plea of trespass on the case, &c.

For that whereas the plaintiffs, before and at the time of the grievances herein after mentioned, were, and still are, citizens of the State of California, and merchants, doing business at the city of San Francisco, and State of California, to wit, at the district aforesaid, and, in the prosecution of their business aforesaid, had certain ships, barks, and other vessels, not of the United States, then and there, at the times of the herein after mentioned grievances, consigned to the said plaintiffs, and of great value, to wit, of the value, in the aggregate, of two hundred thousand dollars, lawful money of the United States; the said ships, barks, and other vessels, being then and there laden with divers goods, wares and merchandise, of great value, to wit, of the value, in the aggregate, of five hundred thousand dollars, lawful money aforesaid; which said goods, wares, and merchandise, the plaintiffs were then and there about to convey into their warehouses there, then being for storage and for sale in the prosecution of their said business; yet the said defendant, well knowing the premises, but contriving and intending wrongfully and unjustly to injure, prejudice, and aggrieve the said plaintiffs in their interest in said ships, barks, and other vessels, and to deprive the plaintiffs of the benefits and advantages thereof, while the same were kept and detained as herein after mentioned by him, the said defendant, at the place aforesaid, and wrongfully intending that the said ships, barks, and other vessels, were chargeable with tonnage duties to the United States, and that said tonnage duties were a lien on the same; and that he, the said defendant, was authorized and empowered by the military authorities of the United States to collect and demand the said pretended duties on behalf of the United States, when in fact, and in truth, no such tonnage duties were due, or formed any lien on said ships, barks, and other vessels, nor was the said defendant legally authorized or empowered to collect and demand such duties;

did then and there, on *on* divers days, between the third day of February, eighteen hundred and forty-eight, and the twelfth of November, eighteen hundred and forty-nine, at the district aforesaid, to wit, at the said city of San Francisco, in the State of California, take and carry away divers the said ships, barks, and other vessels, so as aforesaid laden and consigned to the plaintiffs, and kept and detained the same from said plaintiffs for divers long spaces of time, and from the times when the said vessels were so taken and carried away until said plaintiffs were compelled to pay to said defendant, under pretence of tonnage duties to the United States, divers large sums of money, amounting in the aggregate to a large sum of money, to wit, to the sum of ten thousand dollars, lawful money of the United States; and thereby said plaintiffs were hindered and prevented, during all the said divers long spaces of time, from carrying said goods, wares, and merchandises from the said vessels to their said warehouses, for the purposes aforesaid, and thereby the plaintiffs lost, during all the time aforesaid, all the benefits, profits, and advantages, that would otherwise have accrued to them therefrom, to wit, at the place aforesaid, and of the benefits that would have accrued to said plaintiffs from the use of said moneys so exacted as duties; which said benefits would have been fully equal to three per cent. per month, the rate of interest then and from thence hitherto current and usual at said city of San Francisco.

And whereas also the plaintiffs, before and at the times of the grievances herein after mentioned, being merchants as aforesaid, to wit, at the city of San Francisco, in the State of California, on divers other days and times between said third day of February, eighteen hundred and forty-eight, and the twelfth day of November, eighteen hundred and forty-nine, in divers other ships and vessels then and there found and being, had divers goods, wares, and merchandise, not the produce of the United States, therein laden, and of great value, to wit, of the value, in the whole, of five hundred thousand dollars, lawful money as aforesaid; and which said goods, wares, and merchandise were then and there consigned to said plaintiffs for storage and sale, and which said plaintiffs were then and there, in the prosecution of their business as aforesaid, about to convey to their warehouses and storehouses then there being; yet the said defendant, well knowing the premises, but contriving, and wrongfully and unjustly intending to prejudice and aggrieve the plaintiffs in their interest therein, and to deprive said plaintiffs of the benefits and advantages thereof, during the continuance of the herein after mentioned grievances by the defendant, to wit, at the district aforesaid, and wrongfully pretending that import duties on the said goods, wares, and merchandise were due to the United States, and were a lien thereon, and that the said defendant was authorized and duly empowered, by the military powers of the United States, to collect and demand said alleged duties on the same; whereas in fact, and in truth, no such duties were due thereon, nor was said defendant legally authorized or empowered to collect or demand such pretended duties, took, carried away, kept, and detained the said goods, wares,

and merchandise, for divers long spaces of time, to wit, from the several days of said wrongfully takings until the plaintiffs were compelled, against the remonstrances and protest of the plaintiffs, to pay to said defendant divers large sums of money, under pretence of duties on imports, to the United States, amounting altogether to a large sum of money, to wit, to the sum of three hundred thousand dollars, lawful money of the United States; and thereby the plaintiffs were hindered and prevented, during said divers long spaces of time, from carrying and conveying said goods, wares, and merchandise to their said warehouses and storehouses, for the purposes aforesaid; and thereby said plaintiffs, during said divers long spaces of time, lost all the benefits, profits, and advantages, that would otherwise have accrued to them therefrom, to wit, at the district aforesaid, and of the benefits that would have accrued to said plaintiffs from the use of said moneys so exacted as duties; which said benefits would have been fully equal to three per cent. per month, the rate of interest then, and from thence hitherto, current and usual at the said city of San Francisco.

And whereas also the plaintiffs, before and at the times of the grievances herein after mentioned, being merchants as aforesaid, at the place aforesaid, to wit, at the city of San Francisco, in the State of California, on divers other days and times between the said third day of February, eighteen hundred and forty-eight, and the said twelfth day of November, eighteen hundred and forty-nine, in divers other ships and vessels, then and there found and being, had divers other goods, wares, and merchandise, not the product of the United States, belonging to and owned by said plaintiffs, and of great value, to wit, of the value, in the aggregate, of five hundred thousand dollars, lawful money as aforesaid, and which the said plaintiffs were then and there about to convey, in the prosecution of their business aforesaid, into their warehouses and storehouses for sale; yet the said defendant, well knowing the premises, but contriving, and wrongfully and unjustly intending to prejudice and aggrieve the plaintiffs in their interest therein, and to deprive said plaintiffs of the benefits and advantages thereof, during the continuance of the herein after mentioned grievances by the defendant, to wit, at the district aforesaid, and wrongfully pretending that import duties on said goods, wares, and merchandise were due to the United States, and were a lien thereon, and that the said defendant was authorized and empowered, by the military powers of the United States, to collect and demand such alleged duties thereon; whereas in fact, and in truth, no such duties were due thereon, nor was said defendant legally authorized or empowered to collect or demand the said pretended duties, took, carried away, and kept, and detained the said goods, wares, and merchandise, for divers long spaces of time, to wit, from the several days of said wrongfully taking, until said plaintiffs were compelled, against the remonstrances and protests of said plaintiffs, to pay to said defendant divers large sums of money, under pretence of duties on imports to the United States, amounting in the whole to a large sum of money, to wit, to the sum of three hundred thousand

dollars, lawful money of the United States; and thereby said plaintiffs were hindered and prevented, during said divers long spaces of time, from carrying and conveying said goods, wares, and merchandise, to their said warehouses and storehouses, for the purposes aforesaid; and thereby said plaintiffs, during said divers long spaces of time, lost all the benefits, profits, and advantages that would otherwise have accrued to them therefrom, to wit, at the district aforesaid, and the benefits that would have accrued to said plaintiffs from the use of said moneys so exacted as duties; which said benefits would have been fully equal to three per cent. per month, the rate of interest then, and from thence hitherto, current and usual at the said city of San Francisco.

And also whereas the said defendant, on the first day of January, in the year one thousand eight hundred and fifty, at the district aforesaid, was indebted to the said plaintiffs in the sum of three hundred thousand dollars, lawful money of the United States of America, for so much money before that time lent and advanced by the said plaintiffs to the said defendant, and at the special instance and request of the said defendant; and being so indebted, the said defendant, in consideration thereof, afterwards, to wit, on the same day and year last aforesaid, and at the place aforesaid, undertook, and then and there faithfully promised the said plaintiffs, well and truly to pay unto the said plaintiffs the said sum of money last above mentioned, when the said defendant should be thereunto afterwards requested.

And whereas, also, the said defendant afterwards, to wit, on the same day and year last aforesaid, at the place aforesaid, was indebted to the said plaintiffs in the further sum of three hundred thousand dollars, lawful money as aforesaid, for so much money before that time paid, laid out, and expended by the said plaintiffs to and for the use of said defendants, and at the like special instance and request of said defendant; and being so indebted, the said defendant, in consideration thereof, afterwards, to wit, on the same day and year last aforesaid, and at the place aforesaid, undertook, and then and there faithfully promised the said plaintiffs, well and truly to pay unto the said plaintiffs the said sums of money last above mentioned, when the said defendant should be thereunto afterwards requested.

And whereas, also, the said defendant afterwards, to wit, the same day and year last aforesaid, and at the place aforesaid, was indebted to the said plaintiffs [in] the further sum of three hundred thousand dollars, like lawful money as aforesaid, for money before that time had and received by the said defendant to and for the use of said plaintiffs; and being so indebted, the said defendant, in consideration thereof, afterwards, to wit, on the same day and year last aforesaid, at the place aforesaid, undertook, and then and there faithfully promised the said plaintiffs, well and truly to pay to the said plaintiffs the said sum of money last above mentioned, when the said defendant should be thereunto afterwards requested.

And whereas, also, the said defendant afterwards, to wit, on the same day and year last aforesaid, and at the place aforesaid, accounted,

together with the said plaintiffs, of and concerning divers other sums of money before that time due and owing from the said defendant to the said plaintiffs, and then and there being in arrear and unpaid, and upon such accounting the said defendant then and there was found to be in arrears and indebted to the said plaintiffs in the further sum of three hundred thousand dollars, like lawful money as aforesaid; and being so found in arrear and indebted to the said plaintiffs, the said defendant, in consideration thereof, afterwards, to wit, on the same day and year last aforesaid, and at the place aforesaid, undertook, and then and there faithfully promised the said plaintiffs, well and truly to pay unto the said plaintiffs the said sum of money last above mentioned when the said defendant should be thereunto afterwards requested.

Nevertheless the said defendant (although often requested, &c.,) has not yet paid the said several sums of money above mentioned, or any or either of them, to the said plaintiffs; but to pay the same, or any part thereof, to the said plaintiffs, the said defendant has hitherto wholly refused, and still does refuse, to the damage of the said plaintiffs of five hundred thousand dollars; and thereof the said plaintiffs bring suit, &c.

And thereupon the said defendant in this suit, by J. Prescott Hall, his attorney, comes and defends the wrong and injury, when, &c., and says that he did not undertake and promise in manner and form as the said plaintiff in this suit have above thereof declared against the said defendant; and of this he puts himself upon the country; and the said plaintiffs likewise, &c.

Therefore the issue above joined is ordered by the said circuit court to be tried at a circuit court of the United States, for the southern district of New York, in the second circuit, appointed to be held at the City Hall, in the city of New York, in and for the said district, on the fifth day of January, in the year of our Lord one thousand eight hundred and fifty-two.

At which day and place last above mentioned, before the justice of the said circuit court, according to the form of the statute in such case made and provided, came as well the said plaintiffs above named as the above named defendant, by their respective attorneys above mentioned; and the jurors of the jury summoned to try the said issue, being called, also came; who to speak the truth of the matters aforesaid being chosen, tried, and sworn, say, upon their oath, that the said defendant did not undertake or promise in manner and form as the said plaintiffs have above thereof complained against him.

Therefore it is considered that the said plaintiffs take nothing by their said declaration, but that they be in mercy, &c.; and that the said defendant do go without day, &c. And it is further considered by the said court now here, that the said defendant do recover against the said plaintiffs one hundred and ninety-seven dollars and sixteen cents for his costs and charges by him about his defence in this behalf laid out and expended by the said court, now here adjudged to the said defendant, and with his assent, according to the form of the statute

in such case made and provided; and that the said defendant have execution therefor.

Judgment signed this 19th day of February, 1852, for dollars.

RICHARD E. STILLWELL,
Deputy clerk.

Circuit court of the United States, for the second circuit and southern district of New York.

Bill of exceptions.

ALEXANDER CROSS, William L. Hobson, and William Hooper, as Cross, Hobson & Co.,
vs.
EDWARD H. HARRISON.

SOUTHERN DISTRICT OF NEW YORK, *ss.*

Be it remembered, that on the fifth day of January, in the year one thousand eight hundred and fifty-two, as yet of the term of said court, commencing on the third Monday of October, in the year one thousand eight hundred and fifty-one, held at the City Hall in the city of New York, in the southern district of New York, before the honorable Samuel R. Betts, the associate judge of the circuit court of the United States, for the second circuit and southern district of New York, sitting in the said circuit court, the issue within contained, joined between the said Alexander Cross, William Hobson, and William Hooper, plaintiffs, and Edward H. Harrison, defendant, came on to be tried; and the said parties, by their respective attorneys, before the said judge, came; and the jurors of the jury in this behalf duly summoned also came, and to say the truth also in this behalf are elected, tried, and sworn.

And the counsel for the said plaintiffs, to maintain and prove the said issue in their behalf, produced and gave in evidence the testimony of certain witnesses produced, sworn, and examined at San Francisco, in the State of California, under a commission issued out of said circuit court, in the words and figures following:

Depositions of witnesses produced, sworn, and examined the 22d day of July, in the year one thousand eight hundred and fifty-one, at San Francisco, State of California, under and by virtue of a commission issued out of the United States circuit court for the southern district of New York, in a certain cause therein depending and at issue between Alexander Cross, William Hobson, and William Hooper are plaintiffs, and Edward H. Harrison is defendant, as follows:

Samuel J. Gower, of the city of San Francisco, auctioneer and commission merchant, aged twenty-five years and upwards, being duly and publicly sworn pursuant to the directions hereto annexed, and examined on the part of the plaintiff, doth depose and say as follows, viz:

First. To the first interrogatory he saith: "I know all the parties to this suit."

Second. To the second interrogatory he saith: "I remember duties were exacted from various parties on merchandise imported into California from the 3d February, 1848, to 12th November, 1849, but do not remember the amounts paid by the firm of Cross & Co."

Third. To the third interrogatory he saith: "The exactions were made by Edward H. Harrison, then collector of the port of San Francisco, by virtue of appointment of Col. Mason, military governor of California. Mr. Harrison claimed the duties he collected under the revenue laws of the United States; I have no papers or documents relating to these duties; I was in the custom-house during the period referred to in the second interrogatory, and had access to papers and documents then, but having left there now, cannot of course furnish such papers, &c."

Fourth. To the fourth interrogatory he saith: "I know of no positive, actual force or compulsion that was used to enforce such exactions, but it was universally understood that the goods would not be permitted a landing, and if landed would be seized as forfeited without such exactions were paid. These restrictions were instituted by Edward H. Harrison, collector, &c."

Fifth. To the fifth interrogatory he saith: I know of no civil or military officer having been engaged in enforcing exactions, as import and tonnage duties, other than custom-house officers; Mr. E. A. King was the boarding officer of the custom-house; he boarded and took custody of each and every vessel from a foreign port arriving in the port of San Francisco; he placed an inspector of customs on board to prevent the landing of merchandise without permits or licenses and entries, and the payment of alleged duties; this was done by order of Edward H. Harrison, collector, &c., and by virtue of instructions given and power conferred by said Harrison."

Sixth. To the sixth interrogatory he saith: I was cashier of the custom-house, and by order of Harrison paid over at the end of each month the moneys received for such duties to Capt. J. L. Folsom, U. S. quartermaster. General Riley had not arrived in California at the time I quitted the custom-house."

Seventh. To the seventh interrogatory he saith: Several parties complained of the duties as being illegal exactions, and paid them under protest; among them were Cross & Co. Finally, Mr. Harrison refused to receive them under protest, telling the parties so complaining that they might enter their ships at some other port in the United States, and discharge at the port of San Francisco afterwards; that he considered this port as in the United States, and could not consent that foreign goods should be landed here without payment of duties."

SAM'L J. GOWER.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this 22d day of July, 1851, before

GEO. P. JOHNSTON,
Commissioner.

ALEXANDER CROSS, Wm. Hobson, and William Hooper,
vs.
EDWARD H. HARRISON.

Charles V. Gillespie, of San Francisco, State of California, merchant, aged forty years and upwards, being duly and publicly sworn, pursuant to the directions hereto annexed, and examined on the part of the plaintiffs, (in the above stated case,) doth depose and say as follows, viz.:

First. To the first interrogatory he saith: I know all the parties to this suit.

Second. To the second interrogatory he saith: I know that the plaintiffs did pay money to the defendant under the name of duties on merchandise imported by them into the port of San Francisco on the 23d day of February, 1849, at one time but no other dates, amounts, or circumstances remembered.

Third. To the third interrogatory he saith: From the 3d day of February, 1848, to the autumn of the same year, the alleged duties were exacted under what was known as the war tariff by Captain Joseph L. Folsom, acting U. S. quartermaster, aided by one or more companies attached to the regiment on service in Upper California, and known as the regiment of New York volunteers; after which, in the autumn of the same year, (1848,) before referred to, Col. R. B. Mason, military governor of California, appointed Edward H. Harrison as collector of customs to exact duties on foreign merchandise, and tonnage on vessels imported into San Francisco, under the same tariff as in use in ports of the United States of America, to be assisted, if necessary, by any force of the United States army or navy in this vicinity; this appointment was confirmed by Commodore Thomas Ap C. Jones, commander-in-chief of the U. S. naval forces in the Pacific ocean, as per correspondence deponent had with said Jones, a copy of which is hereto annexed.

Fourth. To the fourth interrogatory he saith: I know of no force or compulsion used other than as set forth in reply to the 3d interrogatory.

Fifth. To the fifth interrogatory he saith: I know of no other officer being engaged in enforcing exactions as imports and tonnage duties other than the boarding officer of the custom-house, who did board vessels arriving in this port from a foreign port; sealed up the hatches, and prevented the landing of merchandise without permits or licenses, and entries, and the payment of alleged duties.

Sixth. To the sixth interrogatory he saith: Said moneys received for each exaction were paid over to the U. S. quartermaster, but how they were appropriated the deponent saith not.

Seventh. To the seventh interrogatory he saith: I know nothing further, material to either party, relative to the matter inquired of; the rate of interest in the money market at the period referred to in these interrogatories was three per cent. per month, or thereabouts.

W. GILLESPIE.

Examination taken, reduced to writing, and by the witnesses subscribed, &c.

Sworn to this 22d day of July, 1851, before

GEO. P. JOHNSTON,
Commissioner.

CROSS, Hobson and Hooper,
vs.
EDWARD H. HARRISON.

Jesse D. Carr, of the city of San Francisco, trader, aged thirty-seven years and upwards, being duly and publicly sworn, pursuant to the directions hereto annexed, and examined on the part of the plaintiffs, (in the above stated case,) doth depose and say as follows, viz.:

First. To the first interrogatory he saith: I know all the parties to this suit.

Second. To the second interrogatory he saith: I was deputy collector at the port of San Francisco from the 21st August, 1849, beyond the period last mentioned in the interrogatory, (12th November, 1849;) and during that time said Cross, Hobson and Hooper paid moneys for exactions styled duties on goods imported from foreign countries at different times and indifferent amounts, into California; but I do not recollect, and cannot specify the dates, amounts, nor circumstances of the exactions made; the exactions were made by Edward H. Harrison, collector of the port of San Francisco.

Third. To the third interrogatory he saith: The exactions were made by Edward H. Harrison, collector of the port of San Francisco, under the general revenue law of the United States; I have no papers or documents giving information on the subject; a large part or all of said papers and documents having been destroyed in the fire of May 3d, 1851, by which the custom-house was consumed.

Fourth. To the fourth interrogatory he saith: I know of no force or compulsion having been used; I have no knowledge, directly or indirectly, relating thereto.

Fifth. To the fifth interrogatory he saith: One Mr. E. A. King was the boarding officer of the custom-house; no other officer, civil or military, was engaged, (in my knowledge,) in enforcing any exactions as import and tonnage duties; Mr. E. A. King was the boarding officer of the custom-house, and boarded and took custody or charge of each vessel from a foreign port arriving in the port of San Francisco, placing an inspector of customs on board to prevent the landing of merchandise without permits or licenses, and entries, and the payment of alleged duties; this was done by the order, instructions, and power given him by said Edward H. Harrison.

Sixth. To the sixth interrogatory he saith: Yea; and the moneys arrising from such exactions was paid over by the order of the commander-in-chief of the U. S. army in California, (General Riley,) to

different quartermasters or quartermasters and commissaries; I know not the uses and purposes to which it was applied.

Seventh. To the seventh interrogatory he saith: Edward H. Harrison always told me that he (Harrison) was acting under instructions from the Secretary of the Treasury and of War in the collection of these duties, and some of the moneys arising therefrom may have been paid over by the order of General Smith, but I am not certain that such was the case; interest averaged about ten per cent. per month; at the time I was in the custom-house gold dust was worth from $14 to $16 per ounce; said Harrison always told me that he considered himself simply amenable to the military government of California, and that he therefore did not consider himself compelled to collect such duties in strict conformity to the minutia of the U. S. revenue law; had he so considered himself he would not have attempted the task of their collection, the difficulty of enforcing these laws being so great.

JESSE D. CARR.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this 22d day of July, 1851, before

GEO. P. JOHNSTON, *Commissioner.*

In the suit of—

ALEXANDER CROSS, William Hobson, and Wm. Hooper
vs.
EDWARD H. HARRISON.

William McP. Hill, of the city of San Francisco, State of California, merchant, aged twenty-eight years and upwards, being duly and publicly sworn, pursuant to the directions hereto annexed, and examined on the part of the plaintiffs, doth depose and say as follows, viz:

First. To the first interrogatory he saith: I know all the parties to this suit.

Second. To the second interrogatory he saith: Yea; I know that said plaintiffs paid money to the defendant, under the name of duties, on merchandise imported by them into California, from the 3d February, 1848, to 12th November, 1849. Said moneys, so exacted for duties, were demanded and their collection enforced by Edward H. Harrison, the collector of the port of San Francisco; but I do not remember any particular dates, amounts, or circumstances connected therewith.

Third. To the third interrogatory he saith: The exactions were made by order of said Edward H. Harrison, collector of the port of San Francisco, by virtue of his appointment to that office by the military Governor of California, at that time. The exactions purported to be such duties as were sanctioned by and collected under the revenue laws of the United States. I have no papers or documents relating to this subject.

Fourth. To the fourth interrogatory he saith: I know of no actual force or compulsion that was used to enforce such exactions.

Fifth. To the fifth interrogatory he saith: I know of no officers, civil or military, who were engaged in enforcing exactions, as import and tonnage duties, other than custom-house officers. Mr. E. A. King was the boarding officer of the custom-house; he boarded and took custody or charge of each and every vessel arriving in the port of San Francisco from a foreign port; he placed an inspector of customs on board, to prevent the landing of merchandise without permits, or licenses, and entries, and the payment of alleged duties.

Sixth. To the sixth interrogatory he saith: I have no positive knowledge of the application of the moneys arising from such exactions, but my impression is, that they were paid over to the quartermaster of the army for the support of the U. S. army.

Seventh. To the seventh interrogatory he saith: I know of no other matter or thing relative to the matter above inquired of, material or of advantage to be known, either to the plaintiffs or defendant.

WILLIAM McPHERSON HILL.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this 22d day of July, 1851, before

GEO. P. JOHNSTON, *Commissioner.*

In the suit of—

ALEXANDER CROSS, William Hobson, and Wm. Hooper
vs.
EDWARD H. HARRISON.

J. P. Haven, of the city of San Francisco, merchant, aged thirty-four years and upwards, being duly and publicly sworn, pursuant to the directions hereto annexed and examined on the part of the plaintiffs, doth depose and say as follows, viz:

First. To the first interrogatory he saith: I know all the parties to this suit.

Second. To the second interrogatory he saith: Yea; I acted as custom-house broker for the plaintiffs during the greater portion of the period referred to in the interrogatory, and in their behalf paid, and saw paid, many thousand dollars to the custom-house, in the shape of duties on goods imported by them into California, in or at the time above specified.

Third. To the third interrogatory he saith: Such exactions were made under order of Edward H. Harrison, collector, &c., he also acting under the order of Colonel Mason and General Riley.

Fourth. To the fourth interrogatory he saith: The whole military and naval force in this part of California was used to enforce such exactions.

Fifth. To the fifth interrogatory he saith: Colonel Mason and Gen. Riley, of the United States army, and Commodore Jones, of the U. S. navy, by their presence and written orders, aided in the enforcement of such exactions, and boats from the United States squadron did board vessels arriving in port, for the purpose of assisting in the collection of the so styled duties; also examined the papers of the vessels going up the river.

Sixth. To the sixth interrogatory he saith: I have no knowledge of the uses and purposes to which said moneys have been converted or applied.

Seventh. To the seventh interrogatory he saith: I have at various times applied to, and obtained the signature of Commodore Jones to licenses of vessels employed in the coasting trade; and have paid fees therefor to Edward H. Harrison, collector of the port of San Francisco.

J. P. HAVEN.

Examination taken, reduced to writing, and by the witness subscribed and sworn to this 22d day of July, 1851, before

GEORGE P. JOHNSTON,
Commissioner.

At the execution of a commission for the examination of witnesses in a suit between Alexander Cross, William Hobson, and William Hooper, plaintiffs, and Edward H. Harrison, defendant, the following writings were produced and shown to C. V. Gillespie, and by him deposed unto, at the time of his examination, before

GEORGE P. JOHNSTON,
Commissioner.

SAN FRANCISCO, *February* 23, 1849.

SIR: I am requested by parties interested in the importation of merchandise into this port, to inquire, respectfully, if you will publicly confirm the appointment of Mr. Edward H. Harrison, as collector of the port of San Francisco, made in September last by Col. R. B. Mason, military governor of Upper California; and whether in the event of foreign goods, wares, and merchandise, being landed at this port, without entry at the custom-house, and the payment of thereon, you will take the responsibility of seizing and confiscating such goods, wares, and merchandise, or aid the collector of the customs to do so, with the forces under your command.

This inquiry is made in consequence of the tenor of the circular issued by R. J. Walker, secretary of the Treasury of the United States, under date October 9, 1848, and that of the President's message, delivered to both Houses of Congress in December last, which have recently been received here, confirming the opinions of those parties, who have always doubted the authority and legality of Colonel Mason or-

dering the collection of duties on imports into California, since the peace with Mexico.

Those persons now believe that the Government at Washington will disclaim all responsibility as to the collection of duties in Upper California, and refer parties who feel aggrieved to Colonel Mason, and those persons acting under his authority for redress; for this reason they desire to know how far you participate in the regulations now in force here, for the collection of duties on imports under the United States tariff of A. D. 1846.

GEORGE P. JOHNSTON,
Commissioner.

An early answer is respectfully desired, as several protests against the payment of duties are now being required by different parties, which must be drawn in conformity to your reply.

I am, sir, respectfully, your most obedient servant,
(Signed) C. V. GILLESPIE,
Notary public for the district of San Francisco, Upper California.

Commodore THOS. AP CATESBY JONES,
Commander-in-chief of the naval forces of the U. S. of America in the Pacific ocean.

FLAG SHIP OHIO, SAN FRANCISCO,
February 26th, 1849.

SIR: Yours dated the 23d instant, making (in behalf of some importing merchants of San Francisco) inquiring in relation to the collection of duties on foreign products and manufactures, introduced in California, was not received until late on Saturday. Your inquiries will be fully answered by stating that I do fully approve of the appointment of Colonel R. B. Mason, commander and military governor of Upper California; of Mr. Edward H. Harrison, as collector of the customs at the port of St. Francisco, and that I will employ the force under my command, when called on by the collector of the customs at the port of San Francisco; and that I will employ the force under my command when called on by the collector, or when I may otherwise find it necessary to enforce the revenue laws of the United States at every point of the coast of California ceded to the United States by the treaty of peace and limits with Mexico. Ratified and exchanged at Queretaro, in Mexico, on the 30th day of May, 1848.

Respectfully, &c.,
(Signed) THOS. AP C. JOGES,
Commander in-chief U. S. naval forces, Pacific ocean.

C. V. GILLESPIE, esqr., *&c.*, *&c.*

The foregoing are true copies.

C. V. GILLESPIE.
G. P. JOHNSTON, *Commissioner*

At the execution of a commission for the examination of witnesses in a suit between Alexander Cross, William Hobson, and William Hooper, plaintiffs, and Edward H. Harrison, defendant, this paper or protest (the date of which is referred to by Mr. Gillespie in answer to interrogatory second) was produced and sworn to [by] said Gillespie, and by him deposed unto at the time of his examination, before

GEORGE P. JOHNSTON,
Commissioner.

Before me, Charles V. Gillespie, public notary, appeared William Hooper, acting for and in behalf of the firm of Cross, Hobson and Company, and declared that Edward H. Harrison, claiming to act as collector of the customs for the port of San Francisco, demanded of him the sum of one hundred and five $\frac{62}{100}$ (105 62) dollars, alleging the same to be the duties on a certain portion of the cargo of the French barque "Staonele," F. G. P. Blanc, master, from Valparaiso, which they, the said Cross, Hobson and Company, intend to land from the said barque, declaring that unless the aforesaid sum of one hundred and five $\frac{62}{100}$ (105 62) dollars was not paid in specie into his hands before landing of said portion of the cargo of the "Staonele," they would, if landed, be seized and confiscated.

Against this demand and all similar demands made *are* any additional portion of the cargo of the barque "Staonele," in which the aforesaid Cross, Hobson and Company may be interested, either for themselves, or as agents for other parties, as well as also as any similar claim which the aforesaid Edward H. Harrison, or any other parties acting by or under his *his* authority, either as claimants or recipients, may set up on merchandise intended by the aforesaid Cross, Hobson and Company to be landed in this port from any other vessel or vessels, the said William Hooper protested in a most formal and emphatic manner, not only in the sum or sums paid, or to be paid, but against all damages, losses, or other injuries sustained thereby; averring, that the demands of the aforesaid Edward H. Harrison, or parties acting under him, are entirely unauthorized by any act or acts of the Congress of the United States, and are therefore illegal.

The said William Hooper acting for and in behalf of the firm of Cross, Hobson and Company, now requires me to note this protest, and he claims the privilege of extending it at any future time or place, embracing, if need there be, all sum or sums of money which he may have heretofore paid in his wrong to the aforesaid Edward H. Harrison or his agents.

Done at San Francisco, and sealed with my private seal for the want of a public seal, this 23d day of February, A. D. 1849.

WILLIAM HOOPER, [SEAL.]
C. V. GILLESPIE,
Notary public, district of San Francisco, Upper California..
GEORGE P. JOHNSTON,
Commissioner.

STATE OF CALIFORNIA,
County of San Francisco, ss.

This is to certify, that the foregoing instrument in writing is a true copy from the original record in my office. Book A, page 27.
Done at San Francisco this eleventh day of June, A. D. 1837.

W. GILLESPIE,
Notary public, [L. S.]
GEO. P. JOHNSTON, *Com'r.*

[L. S.] The President of the United State of America, to George P. Johnston, esquire, of San Francisco, California, greeting:

Know ye, that we, in confidence of your prudence and fidelity, have appointed you commissioner, and by these presents do give you full power and authority, diligently to examine upon their corporal oaths, or affirmations, before you to be taken, and upon the interrogatories hereunto annexed, Jesse D. Carr, A. Clayton, ——— Hoxley, W. Gillespie, J. P. Haven, F. Probst, James Creighton, Samuel J. Gower, J. S. Ruckle, as witnesses on the part of the plaintiffs, in a certain cause now pending, undetermined in the circuit court of the United States of America, for the southern district of New York, wherein Alexander Cross, William L. Hobson, and William Hooker are plaintiffs, and Edward H. Harrison is defendant. And we do further empower you to examine on the same behalf, and in like manner, any other person or persons, who may be produced as witnesses before you; and we do hereby require you, before whom such testimony may be taken, to reduce the same to writing, and to close it up under your hand and seal, directed to John W. Nelson, clerk of the circuit court of the United States, for the southern district of New York, as soon as may be convenient after the execution of this commission, and that you return the same when executed, as above directed, with the title of the cause endorsed on the envelope of the comission.

Witness the honorable Samuel Nelson, judge of said court at the city of New York, this 18th day of April, A. D. 1851, and of our independence seventy-fifth.

JOHN W. NELSON, *Clerk,*
J. S. CUMMINS,
J. S. McCULLOH,
Attorneys for plaintiffs.

Instructions to commissioners.

Annexed to the commission is an extract from the statutes of the State of New York, relative to the taking of testimony out of the State, which extract is directed by law to be annexed to the commission. But as it does not comprise every thing necessary to be attended to by the commissioners, they are requested to observe the following more ample

Instructions.

I. All the commissioners named in the commission should have notice of the time and place of executing it; and if any of them do not act, let the fact that they were notified, or could not be notified, and the reasons for their not acting, be stated.

II. The commission must be executed by the commissioner named therein.

III. The acting commissioner will examine the witnesses separately, after publicly administering to them the following oath or affirmation:

"You do swear, that the answers which shall be given by you to the interrogatories proposed to you, shall be the truth, the whole truth, and nothing but the truth, so help you God."

The oath shall be administered (except in the cases hereinafter mentioned) by the witness laying his hand upon, and kissing the Gospels.

But if the witness shall desire it, he shall be permitted to swear in the following form: "You do swear in the presence of the ever living God;" and while so swearing, he may or may not hold up his hand, in his discretion.

Or if the witness shall declare that he has conscientious scruples against taking an oath, or swearing in any form, he shall be permitted to make his affirmation in the following form: "You do solemnly, sincerely, and truly declare and affirm," omitting the words "So help you God."

IV. The general style or title of the depositions must be drawn up in the following manner:

"Depositions of witnesses produced, sworn or affirmed, and examined, the day of , in the year one thousand eight hundred and , at , under and by virtue of a commission issued out of the , in a certain cause therein depending and at issue between defendant, as follows:

A. B. of (insert his place of residence and occupation,) aged years and upwards, being duly and publicly sworn (or affirmed,) pursuant to the directions hereto annexed, and examined on the part of the , doth depose and say as follows, viz: First. To the first interrogatory he saith, &c. (Insert the witness's answer.) Second. To the second interrogatory he saith, &c., and so on throughout.

If he cannot answer, let him say that he knoweth not.

V. If there be any cross interrogatories, the witness will go on thus:

First. To the first cross interrogatory he saith, &c., and so on throughout.

VI. When the witness has finished his deposition, let him subscribe it; and the acting commissioner will certify as follows:

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this day of , 18 , before

Commissioner.

VII. If any papers or exhibits are produced and proved, they must

1833.

be annexed to the depositions in which they are referred to, and be subscribed by the witness, and be endorsed by the acting commissioners, in this manner:

"At the execution of a commission for the examination of witnesses, between defendant, this paper writing was produced and shown to (insert the witness's name,) and by him deposed unto, at the time of his examination, before

Commissioner."

VIII. The acting commissioners will sign their names to each half sheet of the depositions and exhibits.

IX. If an interpreter is employed, one of the commissioners will administer to him the following oath, and certify thereto:

"You do solemnly swear that you will truly and faithfully interpret the oath and interrogatories to be administered to , a witness now to be examined, out of the English language into the language, and that you will truly and faithfully interpret the answers of the said thereto, out of the into the English language."

Let the deposition be subscribed by the interpreter as well as by witness, and certified by the acting commissioner, as follows:

Examination taken, reduced to writing, subscribed by the witness and by the sworn interpreter, and sworn to by the witness this day of , 18 , before

Commissioner.

X. The commissioner will make return on the back of the commission by endorsement, thus:

"The execution of this commission appears in certain schedules hereunto annexed.

Commissioner."

XI. The depositions and exhibits (if any) must be annexed to the commission, and then the commission, the directions, the interrogatories, cross interrogatories, depositions, and exhibits, must be folded into a packet and bound with tape. The acting commissioners are to set their seals at the several meetings or crossings of the tape, endorse their names on the outside, and direct it thus:

To , esquire, clerk of the , at .

XII. When the commission is thus executed, made up, and directed, it must be returned in the manner specified in the direction on the commission, if there be any.

XIII. If there be no direction on the commission, specifying the manner on which it is to be returned, then it must either be delivered to the court by one of the acting commissioners personally, or else be forwarded by some person coming to this place, and who must be able, on his arrival, to make oath before one of the judges or the clerk of the court:

"That he received the same from the hands [of] A. B., one of the commissioners, and that it had not been opened or altered since he so received it."

XIV. In case of returning the commission by mail, it is to be deposited by one of the acting commissioners in the nearest post office, he making the following endorsement thereon:

"Deposited in the post office at , this day of , 18 , by me.

Commissioner."

In case of returning the commission by a vessel, it is to be deposited by one of the acting commissioners in the letter bag of such vessel, he making upon the commission the following endorsement:

"Deposited in the letter bag of the , now lying at , and bound for the port of New York, this day of , 18 , by me.

Commissioner."

The commissioners are requested to be very careful to observe the foregoing instructions, as the smallest variance may vitiate the execution of the commission.

If the commission be returned by an agent, let him be instructed to call, on his arrival at this place, upon , who will direct him as to its delivery.

U. S. circuit court, for the southern district of New York.

ALEXANDER CROSS, William L. Hobson, and William Hooper, as Cross, Hobson & Co.,
vs.
EDWARD H. HARRISON.

Interrogatories to be proposed to witnesses to be produced on the part of the plaintiffs under the commission to issue to San Francisco, California:

1st. Do you know all or any of the parties to this suit, and if so, which of them?

2d. Have you any knowledge of the exaction of moneys from the plaintiffs under the name of duties on merchandise imported by them into California, from the 3d February, 1848, to 12th November, 1849? If yea, then state your knowledge as fully as the same extends, and specify the dates, amounts, and circumstances thereof, and by whom made.

3d. State under whose orders, and by what law or authority, such exactions were made, and produce any papers and documents that you may refer to in your answer hereto, or account for your inability so to do.

4th. State whether or not any and what force or compulsion was

used to enforce such exactions. State fully all your knowledge relating thereto, and especially by whom, and how the same was exercised.

5th. Were or were not any officers, civil or military, and which, engaged in enforcing any, and what, exactions as impost and tonnage duties? And if yea, state whether they boarded and took custody or charge of the vessels arriving in port, whether or not they sealed up the hatches and prevented the landing of merchandise without permits or licenses and entries, and the payment of alleged duties?

6th. Have you not any, and what, knowledge of the uses and purposes to which said moneys, (if any were so exacted,) have been converted or applied? If yea, then state the same, and all things relative thereto as fully as known to you.

7th. What other matters or things, if any, do you know relative to the matters above inquired of, material or of advantage to be known either to the plaintiffs or defendant? State fully all your knowledge thereof.

JOHN S. McCULLOH,
Attorney and counsel for plaintiffs.

The execution of this commission appears in certain schedules hereunto annexed.

GEO. P. JOHNSTON,
Commissioner.

Opened by consent, and filed October 22, 1851.

The plaintiffs' counsel, further to maintain and prove said issue on their part, produced and gave in evidence the treaty of peace with the Republic of Mexico, bearing date at Guadaloupe Hidalgo, on the 2d of February, 1848, as published in the session laws of the first session of the 31st Congress, and in the 9th volume of the Statutes at Large, as published by Little and Brown, at pages 922 a 943.

And the plaintiffs' counsel, further to maintain and prove said issue on their part, gave in evidence the book kept by the defendant, as collector of customs at the port of San Francisco, in the State of California, between the third day of February, 1848, and the twelfth day of November, 1849, in which book the defendant entered the sums exacted as duties on foreign merchandise and vessels by said defendant; and also the sums returned paid out and disbursed by him during said period, (which book of receipts and disbursements was produced by the defendant's attorney on the trial under an order of this court for the dismissing thereof, upon the petition of the plaintiffs for that purpose,) and by said book the plaintiffs proved that the following sums of money were exacted from the plaintiffs by the defendant, as duties on merchandise and vessels not of the United States, at the dates following, to wit:

Duties exacted by Edward H. Harrison at San Francisco.

1848.		Alex. Cross, per ships—		
Nov.	17	Virginia - - - - -		$3,494 85
Dec.	4	Undine - - - - -		13,312 47
	19	Mercedes - - - -		10,324 00
	20	Voladora - - - -		1,919 69
	22	Mercedes - - - -		52 61
1849.				
Jan.	11	Dolores - - - -		8,292 84
	12	Alert - - - - -		4,112 76
	29	Ann McKimm - -	419 08	
	30	Ann McKimm - -	799 75	
	31	Ann McKimm - -	2560 00	
	31	Ann McKimm - -	986 45	4,765 28
Feb.	6	Ann McKimm - - -		1,674 28
	22	Ann McKimm - - -		108 41
	23	Staouli - - - -		105 02
	27	Mary - - - - -		112 00
	27	Confederacion - - -		748 15
	28	Eliza - - - - -		8,999 72
	28	Neptunus - - - -		8,445 42
	28	Eleodora - - - -		5,986 76
March	6	Neptunus - - - -		1,625 65
	6	Tasso - - - - -		93 40
	7	Tasso - - - - -		413 65
	9	Neptunus - - - -		734 74
	9	Confederacion - - -		76 00
	19	Hortensia - - - -		1,433 54
	22	Hortensia - - - -		440 22
	24	Julia - - - - -		1,897 65
	30	Julia - - - - -		768 95
	30	Neptunus - - - -		159 00
April	11	Emil - - - - -		248 84
	18	Androkles - - - -		7,850 51
	19	Silvia de Grasse - - -		110 29
	19	Correo de Copiapo - - -		311 70
	24	Androklos - - - -		455 56
	25	Emil - - - - -		1,071 00
	26	Androklos - - - -		83 20
	28	Lina - - - - -		7,774 63
	28	Androklos - - - -		80 65
	29	Charlotte - - - -		1,729 71
May	1	Lina - - - - -		122 15
	2	Lina - - - - -		87 00
	4	G. B. Lamar - - - -		11,050 68
	4	John Dunlap - - - -		281 33

DUTIES—Continued.

1849.		Alexander Cross, per ships—	
May	5	Edwin	$266 42
	8	Seis de Junio	600 60
	10	G. B. Lamar	669 23
	10	Androklos	54 94
	10	Natalia	181 88
	12	Androklos	334 58
	12	Lina	226 84
	12	Lina	793 00
	15	Seis de Junio	419 30
	15	Androklos	291 96
	15	Lina	67 13
	15	G. B. Lamar	1,345 35
	15	Geo. Nicholaus	1,648 13
	15	Roland	72 50
	21	Charlotte	959 77
	21	Virginia	3,071 08
	22	Seis de Junio	510 00
	23	G. B. Lamar	1,276 08
	23	Geo. Nicholaus	323 67
	25	Huntress	1,439 48
	25	Geo. Nicholaus	334 77
	25	G. B. Lamar	1,151 20
	28	G. B. Lamar	223 35
	28	Seis de Junio	456 50
	30	Charlotte	736 76
June	1	G. B. Lamar	656 12
	3	Seis de Juno	105 00
	3	Perseverant	118 41
	3	G. B. Lamar or Edwin	252 46
	4	Lina or Neptunus	844 62
	4	Virginia	909 75
	4	J. Munroe	658 24
	6	Virginia	46 14
	7	G. B. Lamar or Edwin	226 75
	9	G. B. Lamar	120 30
	12	G. B. Lamar	92 40
	15	Geo. Nicholaus (Neptunus)	573 65
	15	G. B. Lamar (or Neptunus)	34 35
	19	G. B. Lamar or Edwin	184 47
	20	Edwin	60 75
	21	G. B. Lamar or Edwin	27 00
	23	G. B. Lamar or Edwin	135 56
	23	Edwin	65 36
	25	G. B. Lamar or Edwin	565 68

DUTIES—Continued.

1849.		Alexander Cross, per ships—	
June	26	Seis Junio	$500 10
	30	G. B. Lamar or Edwin	106 00
July	2	Ann McKimm	418 00
	5	G. B. Lamar or Edwin	416 90
	5	Ann McKimm	1,738 75
	7	Ann McKimm	450 60
	7	G. B. Lamar or Edwin	37 16
	7	Edwin	13 50
	7	Tarolinta	518 10
	9	G. B. Lamar	198 14
	12	Mary	557 04
	12	Castilla	2,904 53
	13	Ann McKimm	1,304 55
	13	G. B. Lamar or Edwin	159 36
	19	Tuliote or Tubaske	113 82
	21	G. B. Lamar	46 45
	23	Ann McKimm	97 80
	28	Castilla	247 58
	28	G. B. Lamar or Edwin	82 20
August	4	Ann McKimm	45 36
	6	J. W. Coffin	332 55
	6	Connecticut	1,209 70
	8	Ocean	312 80
	9	G. B. Lamar	48 00
	9	G. B. Lamar	45 25
	10	Lina	70 00
	13	Reward	597 85
	13	G. B. Lamar	43 80
	14	J. G. Caster	369 50
	14	Gal O'Higgins	39 20
	15	Edwardo	1,706 70
	3	G. B. Lamar	50 18
	3	Ann McKimm	48 21
	20	Melchor Sevilla	1,524 80
	20	Gal O'Higgins or Edwin	332 80
	21	Helena	50 10
	22	Melchor Sevilla	537 90
	22	Edwardo	383 40
	22	Lina or Edwin	86 40
	23	Melchor Sevilla	169 20
	23	Gal O'Higgins or Edwin	242 80
	28	Ann McKimm or Edwin	128 40
	30	Lady Adams	1,501 60
Sept.	1	Fanny	30 50

DUTIES—Continued.

1849.		Alexander Cross, per ships—	
Sept.	1	G. B. Lamar	$63 10
	4	Melchor Sevilla	19 00
	6	Edwardo	68 10
	11	Helena	246 90
	11	G. B. Lamar	64 80
	12	Lady Adams	1,720 80
	13	Lina or Edwina	108 60
	13	Edwardo	38 40
	13	Melchor Sevilla	105 60
	17	Gal O'Higgins	147 48
	18	Napoleon	1,274 10
	19	Gal O'Higgins	231 00
	21	Gal O'Higgins	725 30
	21	G. B. Lamar	72 20
	28	Melchor Sevilla	28 60
	28	Delfin	319 20
	29	Robert Bruce	124 00
October	5	Delfin	55 10
	6	Empresa	905 80
	6	Edwardo	30 00
	11	G. B. Lamar	27 60
	11	Treaty	1,687 60
	11	Treaty	240 20
	12	Treaty	546 90
	12	Empreza	647 70
	13	Amazon	394 40
	13	Empresa	145 40
	16	Treaty	163 80
	16	Treaty	962 60
	18	Treaty	152 40
	18	Treaty	527 80
	18	Placer	3 80
	18	Empresa	335 46
	19	Delfin	1,521 30
	24	Treaty	53 50
	25	G. B. Lamar	135 40
	29	Mary	1,038 90
	30	Empresa	69 40
	31	Dryad	91 20
Nov.	8	Lina	161 70
	10	Empresa	87 10
	10	Diana	323 00

And the counsel for the plaintiffs further proved by said book that the defendant returned to said plaintiffs the following sums of money as drawbacks at the dates following, to wit:

Drawbacks paid to the plaintiffs by the defendant, as collector of customs, at San Francisco, in California.

1849. Feb. 28,	duties	per Dolores - - -	$408 62
May 23,	do.	per Neptune - -	1.382 39
May 25,	do.	per Eliza, (or Neptune) -	3,041 44
May 25,	do.	per Neptune - - -	569 44
June 25,	do.	per Androcles - -	409 96
May 23,	do.	per Neptune -	785 80
June 15,	do.	per Louisa - - -	975 30

And the counsel for the plaintiffs further proved by said book that the residue of the moneys so exacted by the defendant from the plaintiffs were disbursed and paid out to and for the use of the United States.

And the counsel for the plaintiffs, further to prove that the alleged duties were enforced by the military power of the United States, under orders and regulations established by military authority before and after the second of February, 1848, offered in evidence the letters, papers, messages, proclamations, and communications, as published by order of Congress in Senate Document No. 18, of 1st session of the 31st Congress, as follows:

DEPARTMENT OF STATE,
Washington, October 7, 1848.

SIR: Previous to your departure for California, the President has instructed me to make known, through your agency, to the citizens of the United States inhabiting that Territory, his views respecting their present condition and future prospects. He deems it proper to employ you for this purpose, because the Postmaster General has appointed you an agent, under the "act to establish certain post routes," approved August 14, 1848, "to make arrangements for the establishment of post offices, and for the transmission, receipt, and conveyance of letters in Oregon and California."

The President congratulates the citizens of California on the annexation of their fine province to the United States. On the 30th of May, 1848, the day on which the ratifications of our late treaty with Mexico were exchanged, California finally became an integral portion of this great and glorious Republic; and the act of Congress to which I have already referred, in express terms recognises it to be "within the territory of the United States."

May this Union may be perpetual.

The people of California may feel the firmest conviction that the Government and people of the United States will never abandon them

or prove unmindful of their prosperity. Their fate and their fortunes are now indissolubly united with that of their brethren on this side of the Rocky mountains. How propitious this event both for them and for us. Whilst the other nations of the world are distracted by domestic dissensions, and are involved in a struggle between the privileges of the few and the rights of the many, heaven has blessed our happy land with a government which secures equal rights to all our citizens, and has produced peace, happiness, and contentment throughout our borders. It has combined liberty with order, and all the sacred and indefeasible rights of the citizens with the strictest observance of law. Satisfied with the institutions under which we live, each individual is therefore left free to promote his own prosperity and happiness in the manner most in accordance with his own judgment.

Under such a constitution and such laws, the prospects of California are truly encouraging. Blessed with a mild and salubrious climate and a fertile soil, rich in mineral resources, and extending over nearly ten degrees of latitude along the coast of the Pacific, with some of the finest harbors in the world, the imagination can scarcely fix a limit to its future wealth and prosperity.

We can behold in the not distant future one or more glorious States of the confederacy springing into existence in California, governed by institutions similar to our own, and extending the blessings of religion, liberty, and law over that vast region. Their free and unrestricted commerce and intercourse with the other States of the Union will confer mutual benefits and blessings on all parties concerned, and will bind us together by the strongest ties of reciprocal affection and interest. Their foreign trade with the west coast of America, with Asia, and the isles of the Pacific, will be protected by our common flag, and cannot fail to bear back to their shores the rich rewards of enterprise and industry.

After all, however, the speedy realization of these bright prospects depends much upon the wise and prudent conduct of the citizens of California in the present emergency. If they commence their career under proper auspices, their advance will be rapid and certain; but should they become entangled in difficulties and dissensions at the start, their progress will be greatly retarded.

The President deeply regrets that Congress did not, at their late session, establish a territorial government for California. It would now be vain to enter into the reasons for this omission; whatever these may have been, he is firmly convinced that Congress feel a deep interest in the welfare of California and its people, and will, at an early period of the next session, provide for them a territorial government, suited to their wants. Our laws relating to trade and intercourse with the Indians will then be extended over them, custom-houses will be established for the collection of the revenue, and liberal grants of land will be made to those bold and patriotic citizens who amidst privations and dangers have emigrated or shall emigrate to that Territory from the States on this side of the Rocky mountains.

The President, in his annual message, at the commencement of the next session, will recommend all these great measures to Congress in the strongest terms, and will use every effort, consistent with his duty, to insure their accomplishment.

In the mean time, the condition of the people of California is anomalous, and will require, on their part, the exercise of great prudence and discretion. By the conclusion of the treaty of peace, the military government which was established over them under the laws of war, as recognised by the practice of all civilized nations, has ceased to derive its authority from this source of power. But is there, for this reason, no government in California? Are life, liberty, and property under the protection of no existing authorities? This would be a singular phenomenon in the face of the world, and especially among American citizens, distinguished as they are above all other people for their law abiding character. Fortunately, they are not reduced to this sad condition. The termination of the war left an existing government, a government de facto, in full operation, and this will continue, with the presumed consent of the people, until Congress shall provide for them a territorial government. The great law of necessity justifies this conclusion. The consent of the people is irresistibly inferred from the fact that no civilized community could possibly desire to abrogate an existing government, when the alternative presented would be to place themselves in a state of anarchy, beyond the protection of all laws, and reduce them to the unhappy necessity of submitting to the dominion of the strongest.

This government de facto will, of course, exercise no power inconsistent with the provisions of the Constitution of the United States, which is the supreme law of the land. For this reason no import duties can be levied in California on articles the growth, produce, or manufacture of the United States, as no such duties can be imposed in any other part of our Union on the productions of California. Nor can new duties be charged in California upon such foreign productions as have already paid duties in any of our ports of entry, for the obvious reason that California is within the territory of the United States. I shall not enlarge upon this subject, however, as the Secretary of the Treasury will perform that duty.

The President urgently advises the people of California to live peaceably and quietly under the existing government. He believes that this will promote their lasting and best interests. If it be not what they could desire, and had a right to expect, they can console themselves with the reflection that it will endure but for a few months. Should they attempt to change or amend it during this brief period, they most probably could not accomplish their object before the government established by Congress would go into operation. In the mean time, the country would be agitated, the citizens would be withdrawn from their usual employments, and domestic strife might divide and exasperate the people against each other; and this, all to establish a government which, in no conceivable contingency, could endure for a single year.

During this brief period it is better "to bear the ills they have than fly to others they know not of."

The permanent prosperity of any new country is identified with the perfect security of its land titles. The land system of the General Government has been a theme of admiration throughout the world. The wisdom of man has never devised a plan so well calculated to prevent litigation, and place the rights of owners of the soil beyond dispute. This system has been one great cause of the rapid settlement and progress of our new States and Territories. Emigrants have been attracted there, because every man knew that when he had acquired land from the Government he could sit under his own vine and under his own fig tree, and there would be none to make him afraid. Indeed, there can be no greater drawback to the prosperity of a country, as several of the older States have experienced, than disputed land titles. Prudent men will be deterred from emigrating to a State or Territory where they cannot obtain indisputable title, and must consequently be exposed to the danger of strife and litigation in respect to the soil on which they dwell. An uncertainty respecting the security of land titles arrests all valuable improvement, because no prudent man will expend his means for this purpose while there is danger that another may deprive him of the fruit of his labors. It is fortunate, therefore, that Congress alone, under the Constitution, possesses "the power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." In the exercise of this power the President is convinced that the emigrants will receive liberal donations of the public land.

Although Congress have not established a territorial government for the people of California, they have not been altogether unmindful of their interests. The benefit of our post office laws has been extended to them; and you will bear with you authority from the Postmaster General to provide for the conveyance of public information and private correspondence among themselves, and between them and the citizens of Oregon, and of our States east of the Rocky mountains. The monthly steamers on the line from Panama to Astoria have been required "to stop and deliver and take mails at San Diego, San Francisco, and Monterey." These steamers, connected by the isthmus of Panama with those on the Atlantic, between New York and Chagres, will keep up a regular communication with California, and *avoid* facilities to all those who may desire to emigrate to that Territory.

The necessary appropriations have also been made by Congress to maintain troops in California to protect its inhabitants against all attacks from a civilized or savage foe; and it will afford the President peculiar pleasure to perform this duty promptly and effectively.

But above all, the Constitution of the United States, the safeguard of all our civil rights, was extended over California on the 30th May, 1848, the day on which our late treaty with Mexico was finally consummated. From that day its inhabitants became entitled to all the blessings and benefits resulting from the best form of civil government

ever established amongst men. That they will prove worthy of this inestimable boon no doubt is entertained.

Whilst the population of California will be composed chiefly of our own kindred—of a people speaking our own language, and educated for self government under our own institutions—a considerable portion of them were Mexican citizens before the late treaty of peace. These, our new citizens, ought to be, and from the justice and generosity of the American character the President is confident that they will be, treated with respect and kindness, and thus be made to feel that, by changing their allegiance, they have become more prosperous and happy.

Yours, very respectfully,

JAMES BUCHANAN.

WILLIAM V. VOORHIES, esq.,
Washington city.

DEPARTMENT OF STATE,
Washington, April 3, 1849.

SIR: The President, reposing full confidence in your integrity, abilities, and prudence, has appointed you an agent for the purpose of conveying important instructions and despatches to our naval and military commanders in California. It is his desire that you should lose no time in repairing thither, by the best and most expeditious route, in the prosecution of the duties devolved upon you, which I shall proceed to explain in the following instructions.

The situation of the people of California and New Mexico has already, at this early period of his administration, attracted his attention. By the late treaty with Mexico, provision was made for the future admission of these Territories into the Union as States; and, in the mean time, the Government of the United States is bound to protect the inhabitants residing in them in the free and entire enjoyment of their lives, liberty, and property, and in the exercise of their civil and *and* religious rights. Owing to causes with which you are fully acquainted, the Congress of the United States failed to assist the Executive by the passage of a law establishing a government in either of the new Territories. You are aware, however, that an act was passed, at the last session, to extend the revenue laws of the United States over the territory and waters of Upper California. This act creates a collection district in California; and you also know that, by another previous act, certain mail facilities have been extended to the same territory. Whatever can be done by the aid of the Constitution of the United States, the treaty with Mexico, and the enactments of Congress, to afford to the people of the Territories the benefits of civil government and the protection that is due to them, will be anxiously considered and attempted by the Executive.

You have been selected by the President to convey to them these assurances, and especially the assurance of his firm determination, so

far as his constitutional power extends, to omit nothing that may tend to promote and secure their peace and happiness. You are fully possessed of the President's views, and can, with propriety, suggest to the people of California the adoption of measures best calculated to give them effect. These measures must, of course, originate solely with themselves. Assure them of the sincere desire of the Executive of the United States to protect and defend them in the formation of any government, republican in its character, hereafter to be submitted to Congress, which shall be the result of their own deliberate choice; but let it be, at the same time, distinctly understood by them that the plan of such a government must originate with themselves, and without the interference of the Executive.

The laws of California and New Mexico, as they existed at the conclusion of the treaty of Guadaloupe Hidalgo, regulating the relations of the inhabitants with each other, will necessarily remain in force in those Territories. Their relations with their former government have been dissolved, and new relations created between them and the Government of the United States; but the existing laws regulating the relations of the people with each other will continue until others, lawfully enacted, shall supersede them. Our naval and military commanders on those stations will be fully instructed to co-operate with the friends of order and good government, so far as their co-operation can be useful and proper.

An important part of your duty will be to acquire, and to transmit to this Department, the best and fullest information in regard to the population, the productions, and the resources of the country; the extent and character of all grants of land made by Mexico prior to the late treaty; the quantity and condition of the public domain, and especially of those portions which are rendered valuable by their metallic and mineral wealth; and the general fitness and capacity of these new acquisitions for the great purposes of agriculture, commerce, and manufactures. The development of the resources of this vast and interesting region, in all that concerns the interest and welfare of its present and future occupants, is a cherished object of this Government; and all the information which you can obtain in relation to these subjects, will be most acceptable to this Department.

It is desirable to know the numbers of the various Indian tribes which form a portion of the population of the Territories, their power, character, and modes of life, and the number of Mexicans held as captives there by any savage tribes, whose release and restoration to their own country this Government is bound to exact by the 10th and 11th articles of the treaty; also, as nearly as may be, the number of Mexicans who, within the year after the exchange of the ratifications of the treaty, have withdrawn from the Territories; and the number of those who have declared their intention to preserve the character of citizens of the Mexican Republic, agreeably to the 8th article of the treaty.

It is not credited by this Government that any attempt will be made to alienate either of these portions of the Territories of the United States,

or to establish an independent government within their limits. But should the existence of any such project be detected, you will not fail to bring it to the immediate notice of your Government, that proper measures for the protection of the interests of the people of the United States may be promptly adopted.

You are fully authorized to confer with our military and naval commanders within these Territories, who will be instructed to assist you in the accomplishment of the objects of your mission.

Your compensation will be at the rate of eight dollars per diem, from the time of your departure on the business of your mission until your return home; and you will be allowed your travelling and other expenses during your absence, for which you will be careful to take vouchers in all case[s] where they can be obtained.

The sum of one thousand dollars is advanced to you on account.

I am, sir, very respectfully,

Your obedient servant,

JOHN M. CLAYTON.

Hon. THOMAS BUTLER KING,

Appointed agent of the United States to California.

TREASURY DEPARTMENT, *April* 3, 1849.

SIR: In view of your departure for California, to enter upon your duties, in pursuance of your commission as collector of the customs for the district of Upper California, and inspector of the revenue for the port of San Francisco, it is deemed expedient and proper to furnish you with the following preliminary instructions for your information and government. When you shall have executed your official bond as collector, and the same shall have been accepted and approved by the First Comptroller of the Treasury, your compensation, as fixed by the fourth section of the act of 3d of March, 1849, entitled "An act to extend the revenue laws of the United States over the territory and waters of Upper California, and to create a collection district therein," will commence on the date of the approval of your bond. Your compensation, as provided by the act referred to, is "fifteen hundred dollars per annum, and the fees and commissions allowed by law." The official fees are enumerated in the second section of the Compensation act of 2d March, 1799—see Compilation of Revenue Laws, by Gordon, page 136; and those specified in the thirty-fourth section of the Coasting act of the 20th February, 1793—same book, page 39. You will also be entitled to receive a commission of three per centum, as authorized by the second section of the Compensation act before mentioned, on all moneys received on account of duties accruing on all goods, wares, and merchandise imported into the district of Upper California, and duly accounted for by authorized disbursements or deposites; and out of the emoluments that would accrue to you as aforesaid, in your capacity of collector, you cannot be allowed to retain more than at the maximum rate of three thousand dollars per

annum, to be computed from the beginning of your official year, as prescribed by the tenth section of the act "further to establish the compensation of officers of the customs," &c., approved 7th May, 1822; nor out of the emoluments that shall accrue to you for services performed in other capacities than collector, can you receive more than at the maximum rate of four hundred dollars per annum. The compensation of the deputy collectors, authorized by the act in question to be stationed at the ports of delivery, to wit, San Diego, Monterey, and at a point to be selected by the Department, near the junction of the rivers Gila and Colorado, at the head of the Gulf of California, are fixed by the act at one thousand dollars each per annum, "and the fees and commissions allowed by law."

As vessels and cargoes arriving from foreign ports cannot, under existing provisions of law, enter and land cargo, and pay or secure the duties, at any other place than at a port of entry, and the ports before designated being ports of delivery merely, no duties can legally be paid or secured at either of said ports. All vessels from foreign ports must enter, and the duties be paid or secured, at San Francisco, the port of entry of the district. On this being done, the vessel may proceed with her cargo, or any portion thereof, and land the same at either of the ports of delivery mentioned, on due compliance being had with the requirements of the law, as prescribed in the General Collection act of 2d March, 1799. The fees accruing to the deputy collectors, for services enjoined by law upon them in such cases, will be found specified in the compensation acts before mentioned. As no moneys can, for the reasons before stated, be received by these deputies on account of duties on imported merchandise, no commissions can accrue to them in the capacity of deputy collectors. Commissions, however, may accrue to them, at the rate of two and a half per centum, as agents for the disbursements of moneys placed in their hands for the relief of sick and disabled seamen, under the marine hospital laws, as also for disbursements for light-house establishments, should it be found necessary hereafter to constitute them such agents. These officers are by law made subject to your control and direction, and should be required to report to you in regard to their official acts, and make such periodical statements and returns as may be found needful. You will, from time to time, furnish them with funds to pay their salaries, and such public expenses incurred at their ports as may be authorized by law and the instructions of the Department, they accounting to you for all moneys thus placed in their hands.

Upon the execution and approval of the bonds, in the penal sum prescribed by the Solicitor of the Treasury, given under the Independent Treasury act, approved the 6th of August, 1846, you become authorized to discharge the duties of a designated depositary of public moneys under said act. This service being incidental to your office as collector of the customs and revenue, no compensation can legally be allowed for services performed in that capacity.

Should you propose to appoint the deputy collectors for the ports of

delivery enumerated in the act, before reaching your collection district, they should be submitted for the approval of the Department, in pursuance of the seventh section of the act of 3d March, 1817. (See Compilation of Revenue Laws, page 226.) When the approval is given, they may qualify by taking the oath of office; and their compensations will commence with the date of their oaths, respectively. In pursuance of the same act, you are authorized to appoint, subject to approval as aforesaid, a deputy collector and inspector, to aid you in the discharge of your official duties at the port of San Francisco, who will be allowed the maximum pay of an inspector of the customs, viz., at a rate not to exceed three dollars per day.

Upon entering on the discharge of your duties at San Francisco, should it become necessary to employ subordinate officers of the customs, you may, in pursuance of the second section of the Compensation act of 2d March, 1799, as modified by the act of 26th April, 1816, employ such temporary or occasional inspectors as may be found indispensably necessary for the protection and security of the revenue, to be paid, when actually employed, a sum not exceeding three dollars per day each. Should the employment of permanent subordinate officers of the customs be deemed necessary, you will, in pursuance of the 21st section of the General Collection act of 2d March, 1799, nominate, for the approval of the Department, competent and trustworthy persons to perform the respective duties mentioned in said section, or such of them as may be needed, taking care to furnish reasons to show the necessity for their employment, and stating the rate of compensation proposed to be allowed, which in no case can, for inspectors of the customs, exceed three dollars per day. These officers cannot be employed or paid until the approval of the Department is received; but occasional or temporary inspectors may be employed and paid at the commencement of your duties, as before intimated, without awaiting such approval.

As authorized by the 21st section of the act of 2d March, 1799, you are authorized to provide at the port of San Francisco, at the public expense, storehouse accommodations for the safekeeping of goods, &c.; in which building the collector's office may be held. In providing such public store, it is expected that you will exercise proper economy, and pay no higher rent than the rate usual at the port for similar accommodations. You will take care to advise the Department on this subject, and state the rate of rent proposed to be allowed. Should it become necessary to provide stores for warehousing foreign imported goods under bonds, under the Warehousing act of 6th August, 1846, you will be governed by the instructions and regulations issued by the Department under said act, which have been supplied you.

Copies of the laws, with proper forms and instructions, in reference to the safekeeping and rendition of your accounts, together with the periodical returns to be made, and instructions to govern you in the assessments and collection of duties, have been furnished you. The First Comptroller has been instructed to furnish you with the neces-

sary articles appertaining to the custom-house, for the use of the collector's office at San Francisco, and also for the offices of the deputies at their respective ports.

It being ascertained that expenses will be necessarily incurred in your district before funds are likely to come into your hands from duties, it is deemed proper, to prevent delay and embarrassment on this account, to advance to you out of the revenue, to be carried with you to your destination, a sum of money deemed to be adequate to defray such expenses. The First Comptroller has accordingly been directed to furnish you, by an order on the collector of New York, with the sum of six thousand dollars, together with the additional sum of five hundred dollars, to defray your own actual travelling expenses incurred in proceeding to San Francisco.

With these sums you will be duly charged and held accountable, and will receive due credits in the settlement of your official accounts for such disbursements, properly vouched, as may be made in pursuance of law and instructions. No travelling expenses can be allowed to your deputies or any other subordinate officers who may accompany you to California. Should it become necessary, in the enforcement of the revenue laws, to call for additional aid and assistance beyond that afforded by the regular officers of the customs, you are authorized by law to employ the revenue cutter C. W. Lawrence, assigned to that station, as provided in the 99th section of the General Collection act of 2d March, 1799, to which your attention is specially called.

It is proper to advise you that you can only receive in payment of duties coins of the United States, and such foreign coins as are recognised, and their values established by acts of Congress.

In conclusion I would add, that in view of the great distance of your district from the seat of Government, and the consequent infrequency and uncertainty of regular communications, much must be left to your good judgment and discretion, which the Department confidently expects will, within the limits of the law, be judiciously exercised.

You will be expected to furnish returns and other official statements with the utmost punctuality practicable, and will communicate, by letter, with the Department as often as opportunities shall occur, offering such suggestions for its consideration as the interests of the revenue and the general condition of things in your district may, in your opinion, render expedient.

W. M. MEREDITH,
Secretary of the Treasury.

JAMES COLLIER, esqr.,
Collector of the customs for the port of San Francisco, district of Upper California, now in Washington.

COLLECTOR'S OFFICE,
San Francisco, October 30, 1849.

SIR: This office has never as yet been supplied with any locks for

ships' hatches, nor with any gauging or weighing machines, nor measures of any kind; and, this being a new country, it is impossible to purchase such things here. There should be sent here from three to five hundred locks for ships' hatches and storehouses; these should be of various sizes; some fifty pairs of scales and balances, of different kinds and sizes; some quantity of measures of different kinds, &c., and sizes; and also a quantity of gauging rods, &c. All of these articles are much wanted. Also, want a few copies each of the different revenue laws, tariffs, &c., and all blanks, such as registers, crew lists, &c., that are furnished by the Government, and also sea letters. The business of this office is of much more importance than the Department at Washington has any conception of; and there are many things here that need regulating and advising *and advising* about, and which I should have addressed the Department about long since, but have been expecting the collector (Col. Collier) daily for the last three months. If Col. Collier does not arrive before the departure of the next steamer, I shall take the liberty to report upon many points of importance. The present system adopted here makes it impossible to conform with the law in many respects. Shall the mail steamers running from this to Panama be allowed to purchase coal, intended for consumption on the route from this to Panama, free of duty? So far they have been doing so, but I can find no law which will justify the course pursued.

The department here is suffering much from the want of the articles I have asked for in this letter.

Very respectfully, your obedient servant,

J. D. CARR,
Acting deputy collector.
ABRAHAM KENTZING, Jr.,
Appraiser.

Hon. W. M. MEREDITH,
Secretary of the Treasury, Washington city, D. C.

SAN FRANCISCO, *November* 13, 1849.

SIR: I am at last at my post. The delay attendant upon my arrival has been to me a source of great anxiety, and given me much trouble. I can only say that I have been in the hands of others, over whose movements I had no control. Remonstrances and importunities were alike disregarded. I have suffered much of hardship, of privation, and toil and encountered no little of peril. We were compelled, for several days in succession, to fight our way through hostile bands of Indians, but escaped without the loss of life on our part, and with but one man wounded, he having both bones of his arm broken. It is with great regret that I have to state, also, that in crossing the Colorado four persons were drowned, and that one of the number was Captain Thorn, of New York, who was in command of the dragoons. At some future period I hope to give you some account of my pilgrimage, and of the miserable country we have passed over. At present, owing to the early

departure of the steamer, I have barely sufficient time to advise you of the condition of things in the "State of California," and of the business of this office.

You are no doubt already advised that *that* the people of California, in convention, have adopted a constitution of State government; and the election for governor and for other officers is this day being held. Our friend, T. Butler King, is a candidate for the United States Senate, with some prospect of being elected by the legislature. He has been, I am informed, quite ill. I have not had the pleasure of seeing him, as he is at present located at Benicia.

I am perfectly astounded at the amount of business in this office. I took possession of it on yesterday, and during so short a period have been unable to make all the inquiries and examination necessary to put me in possession of all the information desirable. The amount of tonnage, however, on the 10th instant, in port, was 120,317 tons; of which 87,494 were American, and 32,823 were foreign.

Number of vessels in the harbor on that day, 10th instant, 312, and the whole number of arrivals since the first of April, 697; of which 401 were American, and 296 foreign. This state of things, so unexpected, has greatly surprised me. Desirous as I am of conforming to the instructions received from the Treasury Department, yet you will see, from what follows, that so far as the salaries of the various officers employed in this office is concerned, it will be wholly impossible. The clerks, for instance, are receiving from $1,800 to $3,000 per annum, and there is not a sufficient number to transact the business. More must be employed, and that, too, with like salaries. The inspectors are receiving four dollars per day, and a large number are employed. The necessity for the payment of such salaries arises from the fact that the expenses of living justify the payment. For example, flour is this day selling for forty dollars per barrel, and pork at $60. For boarding the average is $5 per day, without rooms or lodging. A small room, barely sufficient to contain a single bed, rents readily at $150 per month. Wood is $40 per cord, and every article of food is at a like rate. It is impossible, therefore, to retain clerks or other officers without the payment of salaries corresponding with the expenses of living. So much for the expenses of this office. The business is now daily on the increase, and my whole attention, day and night, will be required. I shall be compelled also to employ additional clerks. One difficulty, however, presents itself, and that is, where to put them. I am occupying what was the old Mexican custom-house, constructed of unburnt brick. It is a long, dark, one-story building, in miserable condition. The roof leaks so badly that during a rain our papers are liable to be wet; the doors are some of them off the hinges, and all are insecure. I have no vault for the safekeeping of the public money. Owing to the rates for rent, I am afraid to lease a building; one for myself, containing four rooms, two below and two above, without fire-places, was offered to me on yesterday at $2,400 per month. I am so remote from Washington, that, under these circumstances, I shall be compelled to

"take the responsibility" of making repairs, even at present prices, to wit, shingles at $60 per thousand, and lumber at $300, and shall have to pay the carpenters from $12 to $16 per day. These facts may startle you, but such is the true state of things. I hope, therefore, that in ordering these indispensable repairs, without waiting for these instructions, I shall not be censured. A custom-house must be built, and ought to be immediately contracted for and sent around. One of cast iron will be the best, if it can be built. There should be no delay. The business will justify it, and it is indispensable. Great inconvenience is felt, and no little risk incurred from the fact that we have not a house nor a room for stowing goods. I have been compelled to continue a practice which I found existing, of stowing goods and warehousing on board of vessels. There are now nineteen thus employed. This is a hazardous and most inconvenient practice, and opens a broad door for smuggling. Several warehouses (not less than four) should be immediately sent out. You will see from a paper addressed to me by the merchants of this city, (containing thirty thousand people,) that they deem it indispensable; I may, nay, I probably shall, be compelled before I can hear from you, to rent a building for a warehouse. Should I do so, it will be at a price that may astonish you, and yet the Government will not be the loser. The charge for storage must correspond with the price paid, and in the end the building or buildings thus employed will be a source of revenue.

I have written by the steamer, to Messrs. Saffarrans & Co., urging them to push forward without delay the building already contracted for, and desiring them to call upon you in relation to the construction of four others of the same dimensions. We have not now a room for the appraisers or inspectors. Goods that have to be appraised, are either exposed on board the ship, or deposited in the store of the owner or consignee. When it is known that, in a commercial point of view, this port is equal to that of Philadelphia, the necessity of providing suitable buildings without delay, must be seen and acknowledged. I should be doing great injustice, not only to the Government, but to all concerned in commerce, were I to refrain from expressing my opinion frankly upon these important subjects.

On my voyage to this port from San Diego, I had an opportunity of visiting some of the points on the coast, which in a commercial point of view are of no little importance, and to which your attention is solicited. One of them is San Pedro. I am fully of [the] opinion that more goods are landed at San Pedro than at any other point, excepting only San Francisco. A large amount of smuggling is carried on at that place. It is distant from Los Angeles some twenty-five miles, and from the latter the Mexicans obtain all their goods for trade in the interior of Mexico. These goods are generally of high price and rich fabric. I met several large parties of these traders on my way to the Pacific, and in every instance was advised by them that they purchased their goods at Los Angeles. I saw while at San Pedro, (which contains but three buildings,) in a warehouse, a large amount

of goods from China. I have been unable to ascertain where they were entered. The collector resides at Los Angeles; and these goods, together with most if not all that have been landed, have escaped the payment of duties. I recommend that it should be made a port of delivery, and that a deputy should be stationed there. Santa Barbara is also a place of some importance, and should be made a port of delivery. As a town, the latter is far superior to San Diego. These are the only points where I landed on the coast.

To enforce the revenue laws in this district, and to cut up and prevent smuggling, which has been and is now carried to a great extent, it seems to be necessary that an additional cutter should be sent out, or that the Ewing, now in this port, should be assigned to that duty. Do all that you can, I fear it cannot be prevented, but it may be greatly curtailed. In connexion with this service, permit me to suggest the propriety, nay, the necessity, of shipping as soon as possible a sufficient amount (for at least one year,) of supplies for the Lawrence, and for any other vessel that may be assigned to the revenue service. I have advertised for proposals for furnishing provisions but cannot take the responsibility of entering into a contract at the present prices. It would be an immense saving to the Government to dispatch forthwith an ample supply from the Atlantic.

I presume that no proposal will be offered at less than $50 or $60 per barrel for pork, and not less than $30 per barrel for flour. Under these circumstances, I must purchase a temporary supply, and wait your instructions upon the subject. You are aware that the duties collected on this coast have been hitherto collected under military authority, and that the money has been paid over to the pay and quartermaster's departments. I have already been inquired of whether I would cash the drafts of these departments. This I cannot do without your instructions. Situated as I am, I should like to be relieved from the responsibility of retaining the money in my hands for any considerable length of time. The duties will amount to a large sum, and I have no secure or safe place of keeping it. There is another subject to which I desire to call your attention, that of the establishment of a marine hospital. Almost daily applications are made for relief or assistance by sick and disabled seamen. I do not know any thing that I can do without your instructions. A suitable building, even could one be procured, could not be rented for any reasonable sum. And yet humanity requires that this class should be provided for. A physician could not be procured by the offer of three times the present fees.

I had hoped to have found on my arrival letters from the Department, but was disappointed. It is extremely difficult to institute and carry on a suit commenced against a vessel seized for violating the revenue laws. Two seizures have been made since I took possession of the office. These suits are to be instituted in Oregon or Louisiana. How is process to be served? Can the marshal in either district serve process without special authority to do so by act of Congress? Can he appoint a deputy for California? It seems to me that great difficulty

will be found in carrying out the law in this particular. The act of Congress making California a collection district requires the Secretary of the Treasury to establish a port of delivery as near as may be to the junction of the rivers Gila and Colorado, at the head of the Gulf of California. The establishment of such an office I do not consider as at all practicable. The Colorado will never, in my opinion, become navigable to the point. It is far off from civilization, on the borders of the great desert, and in the midst of numerous tribes of Indians. The line between the United States and Mexico will not be more than two or three miles from the junction of the rivers. The valley of the Gila is utterly worthless, and I would not take a deed of the whole country to-morrow. It is true, that here and there a spot may be found susceptible of cultivation, but they are "few and far between." I presume that no white man could be found willing to become deputy collector in a port where a flag would never flutter. I have had possession of this office but two days, and have hardly yet recovered from the toils of my long and weary pilgrimage. What I have written has been done in great haste. The early departure of the steamer, however, will be my excuse. I beg you to be assured that this port is of the first importance to the country, and deserves, and will no doubt receive, the prompt attention of the Department.

In the discharge of the responsibilities of this office, I may, and no doubt shall, commit many errors. Situated as I am, without the aid of courts, and remote from Washington, I shall be called upon to exercise discretionary powers. The rights of our countrymen and the interests of commerce seem to require it. I hope to so discharge the trust confided to me as to secure your approval. By the next steamer I hope to address you, if not more fully, at least with less haste.

Before closing this communication, permit me to say that the articles directed to be shipped from New York to this office, have not as yet arrived. I have, consequently, been compelled to purchase such books as were to be provided here. They are not however what they ought to be. May I ask you to have forwarded without delay, by the steamer, a supply of sea letters for vessels, coasting licenses for vessels both under and above twenty tons, both for steam and sail vessels, registers and records for vessels, crew lists, and two dozen copies of the tariff of 1846. The price of printing here is enormous, and I must look to the Department for a supply. Since writing the foregoing, I have to add that I caused the publication of notice in the papers in this city soliciting proposals for supplies for the revenue service. I enclose copies of two that have been received, in order that you may the better judge what course should be pursued, and of the propriety of my purchasing temporary supplies, looking to a decline in the present prices.

Very respectfully, yours,

J. COLLIER, *Collector.*

Hon. W. M. MEREDITH,
Secretary of the Treasury.

WAR DEPARTMENT,
Washington, October 13, 1847.

SIR: In instructions, dated 10th May last, sent to General Kearney, then in California, it was stated that vessels engaged in the trade with California, which left home in the United States before the commercial regulations of April last issued, would be required to pay duties at each port on only so much of their respective cargoes as might be landed at such port. It has been determined that this permission should extend to vessels, American or foreign, without regard to the time when they sailed. You will, therefore, direct those who are employed by the authority of the commanding officer of the land forces in California to conform to the above modification.

I herewith send you an extract of a letter from the Secretary of the Treasury to the United States collector at Boston, directing the manner of executing the regulation in regard to this subject.

Extract of a letter from the Secretary of the Treasury to the United States collector at Boston, dated May 10th, 1847.

"In respect to the coasting trade between the ports in California, it is to be remarked that the regulations confine the privilege to American vessels only. This coastwise trade is to be understood as authorizing American vessels only to take in one or more ports foreign merchandise on which duty, under the regulations, has been paid, as also articles of the growth or production of California or Mexico, and carry the same to be landed at any other port, in our possession, in said country.

"Any vessel, American or foreign, arriving at a port in California, that may not be able to dispose of her entire cargo at said port, may enter and pay duty and charges on any part of the same landed thereat, and may then proceed to one or more ports in said country, in the actual possession of the United States forces, and land the residue of her cargo, on due entry and payment of duties thereon. In all such cases, the military officers in command at the ports where portions of the cargo may be landed, and the duties paid, should certify on the manifest the quantity, character, and description of goods landed at their respective ports, and the amount of duties collected thereon.

"All export duties being abolished, under the regulations, it follows that any vessel making up a cargo for exportation from California to the United States ports, or the ports of any foreign country in amity with the same, may proceed from one or more ports within said country to collect and take in her cargo free of duty or charges."

I am, with great respect, your obedient servant,

W. L. MARCY,
Secretary of War.

Col. R. B. MASON,
Commanding U. S. army in California.

WAR DEPARTMENT,
Washington, October 9, 1848.

SIR: Although the regiment of volunteers in California, under the command of Colonel J. D. Stevenson, entered the service under an agreement to receive their discharge, at the end of the war, in that country, if it should then be a part of the United States, and that they should not have a claim to be brought home at the expense of the Government, yet it is understood that many are anxious to return. The President has deemed it proper to offer facilities for returning to those who cannot be prevailed on to remain in California.

You will, on receipt of this communication, discharge such of the volunteers in California as are willing to be there discharged, and retain in service such as are unwilling to take their discharge, until they can be conveniently sent to the United States. The authority to retain them is conferred by a joint resolution of Congress, passed the 16th day of June last, with a copy of which you are herewith furnished. The quartermaster general will be directed to furnish such of the volunteers as insist on returning to their homes with the means of doing so. If the navy now in the Pacific shall have the means of bringing them home, directions will be given for that purpose.

Under a late law of Congress, the men, when discharged, will be entitled to three months' extra pay. Herewith instructions will be sent out to the paymaster to make such payments to them. The soldiers who have been employed in California will also be entitled to a bounty in land. Congress will undoubtedly make provision that the lands may be located in California, should the soldiers desire it; but this cannot be done immediately, because our land system has not yet been put in operation in that Territory. It will be necessary that the certificates or warrants for lands should be issued here. The soldiers will be informed what is necessary to be done in order to procure their certificates for land by the papers, herewith enclosed, from the Pension office. You are desired to have the information communicated to them.

Orders have been issued from the adjutant general's office for your guidance in military matters. The general duties of the officer in chief command of the United States military force in California are to protect and defend this Territory, now a part of the United States, from foreign invasion, and to secure its internal tranquility.

The views of the President in relation to the civil government of California are clearly presented in a letter from Mr. Buchanan, secretary of State, to Mr. Voohies, the agent of the Post Office Department, dated the 7th instant, who is charged with making these views known to the people of that Territory. You are herewith furnished with a copy of that letter, and will, in case Mr. Voorhies shall not have arrived in California, and made its contents known to the people, cause it to be published and extensively circulated throughout the Territory. The general positions therein maintained are that, at the conclusion of the treaty of peace between the United States and Mexico, the military

government which was established in California under the laws of war ceased to derive its authority from this source of power; but the termination of the war left an existing government, a government de facto, in full operation; and this will continue, with the presumed consent of the people, until Congress, which has full and exclusive power under the Constitution to organize governments for Territories, shall provide a government for them. The consent of the people is irresistibly inferred from the fact that no civilized community could possibly desire to abrogate an existing government, when the alternative presented would be to place them in a state of anarchy, beyond the protection of all law, and reduce them to the unhappy necessity of submitting to the dominion of the strongest. But the government de facto can of course exercise no powers inconsistent with the provisions of the Constitution of the United States, which is the supreme law for all the States and Territories of our Union. For this reason no import duties can be levied in California on articles the growth, produce, or manufacture of any State or Territory of the United States; and no such duties can be imposed in any part of the Union on the productions of California; nor can duties be charged on such foreign productions as have already paid duties in any port of the United States. The views of your Government on this point are fully presented in a circular from the Secretary of the Treasury, to collectors and officers of the customs, dated the 7th instant, a copy of which is herewith sent to you. This you are also requested to make known to the people of California.

Congress will be in session within sixty days, and their attention will be at once directed by the President to the subject of providing an adequate civil government for this Territory, and it is reasonable to expect that such provision will be made before this communication can be received by you.

In the mean time it will be the duty of the commander of our military force to recognise the present government de facto, to respect the officers of it, and to lend the military aid to protect the rights of persons and property of the inhabitants of the Territory. Though he has not the right to change or modify the existing civil government, it will be his duty to regard it as an existing government until it is changed by competent authority. He is directed to quiet any uneasiness which may arise in the minds of the people on account of their present anomalous state, by assurances that the Executive of the United States will do what appertains to him to remedy any inconveniences which they may now experience, to secure their rights and to extend to them in the amplest manner all the benefits of our political institutions. No doubt that upon such assurances they will remain quiet under the existing state of things, until the proper authority shall have time to interpose and provide them with a new civil organization, securing to them the advantages of a liberal territorial government, with such encouragements as will facilitate the settlement and promote the prosperity of California.

Great difficulty and embarrassment have been here experienced in

regard to the expenses and the payment of the battalion which was organized in California. No muster rolls have been transmitted to Washington; and without them, and without an account of payments made in California, it is impossible to settle the claims presented to the Department by the officers and men who served in that corps. It is represented that there are muster rolls in California. You are desired to cause them to be transmitted as expeditiously as practicable to the adjutant general here, with such other information as you may be able to obtain in relation to payments and expenses on account of this battalion.

Very respectfully, your obedient servant,

W. L. MARCY,
Secretary of War.

Colonel R. B. MASON,
Commanding United States forces in California.

Circular.

STATE DEPARTMENT OF THE TERRITORY OF CALIFORNIA,

Monterey, August 19, 1847.

SIR: You have been appointed collector of customs and harbor master for the port of .

The commander-in-chief of the naval forces having been authorized by the President of the United States to establish port regulations, to prescribe the conditions under which American and foreign vessels may be admitted into the ports of California, and to regulate the import duties, you will be governed in respect to these matters by such rules and regulations as that officer may deem proper to establish.

The Governor of the Territory directs that you receive for customs and fees nothing but specie, Treasury notes, and drafts; which, at the end of every quarter, you will turn over to the authorized receiver, and settle with him all your accounts. The receipts of such authorized receiver will be for you full and sufficient vouchers. The receiver has been directed, after settling and auditing your accounts at the end of each quarter, to pay to you the amount of your quarterly salary, provided revenue to that amount be collected and received in your office, the authorized expenses of the office being first paid.

In case of any attempt to smuggle, you will immediately give information to the nearest naval and military officers, and report the circumstances to the Governor for his instructions.

You will make out, at the end of each quarter, quarterly returns of all imports and exports; a quarterly return of all vessels arriving at and sailing from the port; a quarterly account current of customs; and a quarterly abstract of disbursements, with accompanying vouchers. These papers will be made out, according to the accompanying blank forms, in duplicate; one copy of which will be filed in your office, and

the other turned over to the authorized receiver, to be transmitted by him to the Governor of the Territory.

Enclosed herewith is a copy of a "Circular," of this date, to the receiver of customs.

Very respectfully, your obedient servant,

H. W. HALLECK,

Lieutenant of engineers, and secretary of State for the Territory of California.

Circular.

STATE DEPARTMENT OF THE TERRITORY OF CALIFORNIA,

Monterey, August 19, 1847.

SIR: You have been appointed to settle and audit the accounts of the collector and harbor master for the port of .

You will settle the accounts of said collector at the end of every quarter, receiving from him all funds in his hands arising from customs. Before auditing these accounts, you will compare them with the entries on the custom-house books of the port, and see that the proper amount of duties have been collected on all goods entered at the custom-house. After having audited the accounts of the collector at the end of each quarter, you will pay him the amount of his quarterly salary, provided funds to that amount, collected and received by you from the revenues of the port, remain in your hands after the authorized quarterly expenses of the collector's office have been paid.

When the same officer is appointed to settle and audit the accounts of two or more collectors, the receipts and disbursements for each port will be kept separate and distinct; so that, if there be not sufficient funds for the full payment of the collectors, each collector may be paid the money actually accruing from the receipts of his office, as specified in the letter of his appointment. Where there are not sufficient funds at the end of any one quarter for paying the full quarterly salary of the collector, the deficiency will be made up at the end of the next following quarter in which there shall be sufficient funds derived from the custom-house revenues remaining in your hands for that purpose.

In case the collector should fail at the end of each quarter to settle his accounts, or to turn over to you all public moneys in his hands, you will withhold the payment of his salary, and immediately report the circumstance to the Governor of the Territory for his instructions.

The funds received from the collector of customs will be kept by you separate and apart from all other public funds in your possession. They are to be used for the civil government of the Territory, and will be paid out only upon the written order of the Governor.

You will transmit, at the end of every quarter, an account current of the civil funds in your possession, and an abstract of disbursements, with the proper vouchers for all your expenditures. You will also transmit the quarterly reports, and other papers of the collector, seeing

in all cases that they are made out according to the instructions received by him from the proper authorities.

Enclosed herewith is a copy of the circular to the collectors of customs, and also blank forms for returns, &c.

Very respectfully, your obedient servant,

H. W. HALLECK,

Lieut. of engineers, and secretary of State for the Territory of California.

STATE DEPT. OF THE TERRITORY OF CALIFORNIA,

Monterey, August 20, 1847.

SIR: It appears from the records of this office that Captain Richardson was appointed collector of the port of San Francisco on the 28th of September, 1846. You will please ascertain if his accounts have been settled, and his salary paid from that date. John Vioget is one of Captain Richardson's securities for the amount of twenty thousand dollars on his bonds. Will you make the proper inquiries to ascertain for what amount Mr. Vioget is reputed good, and report to the Governor?

After reading the enclosed papers for the collector of the port, you will turn them over to Captain Richardson. Please to impress upon his mind the importance of immediate and strict compliance with the directions therein contained.

Very respectfully, your obedient servant,

H. W. HALLECK,

Lieutenant of engineers and secretary of State for the Territory of California.

Capt. FOLSOM, *Assistant quartermaster,*
San Francisco, California.

STATE DEPARTMENT OF THE TERRITORY OF CALIFORNIA,

Monterey, August 20, 1847.

SIR: The Governor of the Territory directs that you will immediately make out and turn over to Captain Folsom your quarterly returns and other papers for the quarter ending June 30, 1847, in accordance with the accompanying "circular" and blank forms. Your quarterly returns and accounts will hereafter be made out and forwarded immediately after the close of every quarter.

Very respectfully, your obedient servant,

H. W. HALLECK,

Lieutenant of engineers, and secretary of State for the Territory of California.

WM. RICHARDSON, *Collector, &c., &c.,*
San Francisco, California.

HEAD-QUARTERS TENTH MILITARY DEPARTMENT,

San Francisco, California, September 27, 1847.

SIR: Governor Mason directs me, in reply to your letter to him of

the 11th instant, to say to you that the President of the United States has conferred upon the commander of the Pacific squadron the power to regulate the duties upon all imports into the ports of California, the military commander only receiving the duties when collected, and causing them to be properly disbursed. Commodore Shubrick has already made port regulations, and he alone has power to remit them when they conflict with the interests of any class of citizens or merchants. Colonel Mason will take pleasure in laying your letter before Commodore Shubrick when he returns to Monterey, and has no doubt the Commodore will make such decision in this case as will comport with the best interests of the Government.

Your letter refers to the shipment of the lumber from one American port to another—an error you could not have committed, had you reflected that every port in California must still be regarded as Mexican until the Congress of the United States changes their nationality.

The port of San Francisco is not an American port, but a Mexican one, held by the American Government by right of conquest, and must remain so until further action is had by the Congress of the United States.

I have the honor to be, your most obedient servant,

W. T. SHERMAN,
First lieut. 3d artillery, A. A. A. General.

R. M. SHERMAN, esq.,
For E. & H. GRIMES, *San Francisco, California.*

HEAD-QUARTERS TENTH MILITARY DEPARTMENT,
Monterey, California, October 14, 1847.

CAPTAIN: Lieutenant Halleck has laid before me your letter of the 8th instant, asking to be relieved from the duties of collector, &c.

The President has assigned these duties to the officers of the army and navy, and you will see by the instructions that go up by this mail that I am in for it here as well as yourself at San Francisco. Major Hardie must give you all the assistance that his command can afford, to aid you in the discharge of these duties. The instructions make you and himself the joint collectors.

Very respectfully, your obedient servant,

R. B. MASON,
Colonel 1st dragoons, Governor of California.

Capt. J. L. FOLSOM,
Assistant quartermaster, San Francisco.

HEAD-QUARTERS TENTH MILITARY DEPARTMENT,
Monterey, California, October 14, 1847.

SIR: I have received your communication of the 8th instant, relating to the seizure of the goods and boats of W. H. Leidsdorff.

I have referred the subject to Commodore Shubrick, who thinks that the boats and goods were very properly seized, and are clearly a

in all cases that they are made out according to the instructions received by him from the proper authorities.

Enclosed herewith is a copy of the circular to the collectors of customs, and also blank forms for returns, &c.

Very respectfully, your obedient servant,

H. W. HALLECK,

Lieut. of engineers, and secretary of State for the Territory of California.

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After reading the enclosed papers for the collector of the port, you will turn them over to Captain Richardson. Please to impress upon his mind the importance of immediate and strict compliance with the directions therein contained.

Very respectfully, your obedient servant,

H. W. HALLECK,

Lieutenant of engineers and secretary of State for the Territory of California.

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W. T. SHERMAN,
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For E. & H. GRIMES, *San Francisco, California.*

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The President has assigned these duties to the officers of the army and navy, and you will see by the instructions that go up by this mail that I am in for it here as well as yourself at San Francisco. Major Hardie must give you all the assistance that his command can afford, to aid you in the discharge of these duties. The instructions make you and himself the joint collectors.

Very respectfully, your obedient servant,

R. B. MASON,
Colonel 1st dragoons, Governor of California.

Capt. J. L. FOLSOM,
Assistant quartermaster, San Francisco.

HEAD-QUARTERS TENTH MILITARY DEPARTMENT,
Monterey, California, October 14, 1847.

SIR: I have received your communication of the 8th instant, relating to the seizure of the goods and boats of W. H. Leidsdorff.

I have referred the subject to Commodore Shubrick, who thinks that the boats and goods were very properly seized, and are clearly a

good prize; but that the matter should not be pushed, if Captain Leidsdorff can make it appear, as no doubt he can, by the evidence of Mr. Smith, to whom he refers, that he bought the goods just as the ship was getting under way, and that he took them with the understanding and expressed intention of paying the duties on shore. Neither the Commodore nor myself supposes for a moment that Mr. Leidsdorff intended to avoid the payment of the duties; but from the loose manner in which Mr. Richardson performed the duties, we presume that Mr. Leidsdorff was not at the moment aware, or did not at the time think, of the necessity of having the collector's permit to land the goods, and that they and the boats would be liable to seizure and confiscation without it.

You have acted very properly in seizing the goods, and in referring the matter here.

If Mr. Liedsdorff shows, by Mr. Smith, that he took the goods from the ship under the circumstances above stated, and with the understanding with the captain that he, Leidsdorff, was to pay the duties on shore, you are authorized to restore the goods and boats upon the duties being paid.

This evidence is required, not because either the Commodore or myself doubts the word of Mr. Leidsdorff, but because it is thought best not to let this matter pass by in a manner so as to suffer it hereafter to be brought up as a precedent.

So much of the instructions relating to the customs, revenue, &c., (fresh ones go up by the mail which takes this,) as it is necessary for shipmasters and merchants to know, had better be published; and that will take from all the plea of not knowing what is made obligatory on them, as well as the officers of the customs.

I am, respectfully, your obedient servant,

R. B. MASON,

Colonel 1st dragoons, Governor of California.

Captain J. L. FOLSOM,

Assistant quartermaster, San Francisco.

Circular.

HEAD-QUARTERS, TENTH MILITARY DEPARTMENT,

Monterey, California, October 14, 1847.

SIR: After a full and free consultation with Commodore Shubrick, and with his full concurrence touching the subject, I transmit herewith to you, for your guidance and government, printed instructions recently received from the War and Navy Departments, relative to the customs and collection of duties in the ports of Mexico and California, by which you will find that these duties are to be performed by army and naval officers.

It has been deemed most to the interest of the United States, by their present authorities in California, that the rates of duties directed to be collected in the ports of Mexico should not go into effect in this Terri-

tory, therefore there will be no change made in the rate or scale of duties as established by Commodore Shubrick in his instructions to the different collectors, dated September 15, 1847. They will be collected and reported to the Department in the manner prescribed by the said printed instructions, but are to be disbursed, as heretofore, by order of the Governor, on account of the civil government here. As no fees are to be charged for boarding vessels, for clearances, &c., it has been deemed proper to increase the tonnage duties from ten to fifteen cents per ton, in lieu thereof. The quartermaster at your post, or any other officer you may choose to direct, will perform the duties of custom-house officer, under your authority and direction, as directed by the printed instructions transmitted herewith, you receiving the amount of duties due as ascertained by the quartermaster or other officer to whom you may have assigned the custom-house duties, and yourself paying it over to the disbursing officer, as the aforesaid printed instructions require.

Some erasures and interlineations are made in the printed instructions, beginning at page 9, so as to make them the better conform to the policy pursued in the California ports. Articles 1, 2, 3, 4, 6, 8, 9, 11, 13, and 15, in the instructions of the 15th of September last, are either annulled or provided for by the printed instructions.

You will take all proper measures to guard the revenue against frauds; for instance, you may prohibit the landing of any article before sunrise or after sunset; you may put a lock or seal upon the hatches and bulk heads at night, so as to prevent any access to the cargo, &c., &c. Should the lock or seal be broken, you may impose a penalty of one dollar per ton registry measurement upon the vessel, &c.

When persons are called in to appraise the cargo, or any part thereof, that may be landed, the expense of the appraisement shall be paid, one half out of the revenue and the other by the captain of the vessel, the supercargo, consignee, or owner, as the case may be.

No freight, box, package, goods, wares, or merchandise, will be permitted to go on board of any ship or vessel after her clearance has been endorsed and signed on the manifest of her outward cargo. (See article 18, printed instructions.) Any box, package, goods, wares, or merchandise so put on board, or attempted to be put on board, after the clearance is signed on the manifest of the outward cargo, shall be confiscated.

I am, respectfully, your obedient servant,

R. B. MASON,

Colonel 1st dragoons, Governor of California.

Major J. H. HARDIE,

7th regiment New York volunteers, com'g San Francisco.

Captain J. L. FOLSOM,

Assistant quartermaster, U. S. army, San Francisco.

Colonel J. D. STEVENSON,

7th reg't New York volunteers, com'g Los Angeles.

Captain DAVIS,
Commanding San Diego.

Captain LIPPETT,
7th reg't New York volunteers, com'g Santa Barbara.

P. S. Whale ships pay no tonnage or revenue duty, unless they land or sell portions of their cargo for the purposes of trade.

HEAD-QUARTERS, TENTH MILITARY DEPARTMENT,
Monterey, California, October 15, 1847.

SIR: I have the honor to acknowledge the receipt of your communication of this date, together with its enclosures.

I herewith enclose to you the printed instructions concerning the collection of customs in the ports captured from the enemy, recently received from the War and Navy Departments. Those issued by Commodore Shubrick, as well as those issued jointly by the Commodore and myself on the 15th of September, ultimo, will be handed to you by Mr. Green, the late collector of this port.

It has been deemed most to the interest of the United States, by their present authorities in California, that the rates of duties directed to be collected in the ports of Mexico should not go into effect in this territory; therefore, there will be no change made in the rate or scale of duties, as established by Commodore Shubrick, in his instructions to the different collectors, dated September 15, 1847. They will be collected and reported to the Department, in the manner prescribed by the said printed instructions, but are to be disbursed, as heretofore, by order of the Governor, on account of the civil government here. As no fees are to be charged for boarding vessels, for clearances, &c., it has been deemed proper to increase the tonnage duties from ten to fifteen cents per ton in lieu thereof.

Some erasures and interlineations are made in the printed instructions, beginning at page 9, so as to make them the better conform to the policy to be pursued in the California ports. Articles 1, 2, 3, 4, 6, 8, 9, 11, 13, 15, in the instructions of the 15th September last, are either annulled or provided for by the printed instructions.

When persons are called in to appraise the cargo, or any part thereof that may be landed, the expense of the appraisement shall be paid, one half out of the revenue, and the other by the captain of the vessel, the supercargo, consignee, or owner, as the case may be.

No freight, box, package, goods, wares, or merchandise, will be permitted to go on board of any ship or vessel after her clearance has been endorsed and signed on the manifest of her outward cargo. (See article 18, printed instructions.) Any box, package, goods, wares, or merchandise, so put on board, or attempted to be put on board, after the clearance is signed on the manifest of the outward cargo, shall be confiscated.

It would afford me, my dear sir, great pleasure to release you from the keeping the accounts and records, if in my power, but really they

are so few, and so simple, that I know you will find not the least trouble or difficulty in getting along with them.

Your kind offer of co-operation, so characteristic of your profession, I accept and most heartily reciprocate.

However foreign these new duties that we have to perform may be to our respective branches of the public service, and however many the difficulties that may at this time suggest themselves to us, yet with that hearty co-operation which you propose, and I so cordially reciprocate, and with "a long pull, a strong pull, and a pull both together," every obstacle and difficulty will be readily overcome.

I am, respectfully, your obedient servant,

R. B. MASON,
Colonel 1st dragoons, Governor of California.

Lieut. Com. LANMAN,
U. S. ship Warren, Monterey.

HEAD-QUARTERS, TENTH MILITARY DEPARTMENT,
Monterey, California, October 20, 1847.

COLONEL: I enclose some new instructions touching the collection of customs, by which you will see that it is made the duty of the officers of the army and navy to collect and account for the revenue. I am at a loss to know how it is to be done at San Pedro, that port being twenty odd miles from your post. You must, however, make the best arrangement you can; and if you find that it cannot be properly done by yourself and officers, or so well done as at present, I see no other way than to keep in the present collector, he turning over the revenue, as soon as collected, to the quartermaster, who must account for it monthly, as the new regulations prescribe; copies of his monthly statement to the Secretary of War to be sent to this office. The strictest watch must be kept up to guard the revenue and protect it from fraud. I leave it to you to give such additional instructions to the collectors in your district as circumstances may call for, having that object in view. Captain Lippett and Captain Davis are the collectors at their respective posts.

The same mail that brings you this will take the instructions to San Diego.

I am having printed some blank forms and extracts from the regulations, such as are necessary for the information of shipmasters and merchants, and will send them to you as soon as they are received.

I am, respectfully, your obedient servant,

R. B. MASON,
Colonel 1st dragoons, commanding.

Colonel J. D. STEVENSON,
Commanding, &c., Los Angeles.

HEAD-QUARTERS, TENTH MILITARY DEPARTMENT,
Monterey, California, October 20, 1847.

SIR: Recent instructions from the President of the United States

make the officers of the army and navy the collectors of the customs in California, and I very much regret that these instructions deprive you of the office of collector at San Diego. You, who have been so staunch a friend to the United States' interests in this country, deserve the thanks and patronage of the Government, and I will take pleasure in mentioning your name in the most favorable manner to our authorities at Washington.

Should any change in the above mentioned instructions be made by the Department in Washington, or any circumstances arise in California, by which I can restore to you the appointment of collector at San Diego, or in any other manner be serviceable to you, it will afford me much pleasure.

The instructions referred to will be shown to you by the commanding officer at your post, to whom be pleased to turn over all the books, papers, property and funds, appertaining to the customs in your possession.

I am, respectfully, your obedient servant,

R. B. MASON,
Colonel 1st dragoons, Governor of California.

Don MIGUEL DE PEDRORENA, *San Diego.*

NOTE. This same letter was addressed to Don Pedro Carrillo, Santa Barbara.

HEAD-QUARTERS, TENTH MILITARY DEPARTMENT,
Monterey, California, October 26, 1847.

SIR: I enclose the manifest and a translation thereof, of the brig "Keone Ana," from Lima. This manifest appears, from its date, to have been made out at this port. The captain must produce the manifest and invoice called for in the 2d and 7th articles of the printed instructions. They, of course, will not be in exact accordance with those articles, as it is supposed they might not have been known at Lima when he sailed; but still he must necessarily have papers made out and signed by the custom-house officers, and others there corresponding to them, and he must produce them. The value of the articles at the port of shipment, mentioned in the 7th article, is of no moment here, as we charge duties by the valuation at the port where the goods are sold or landed. I am satisfied, by his presenting a manifest made out here, and not the one nor the invoice made out at the port from whence he sailed, that it is necessary to watch him close, and keep an account of every thing he lands.

I am, respectfully, your obedient servant,

R. B. MASON,
Colonel 1st dragoons, Governor of California.

Lieut. Com. LANMAN,
U. S. ship Warren, Monterey.

HEAD-QUARTERS, TENTH MILITARY DEPARTMENT,
Monterey, California, October 28, 1847.

SIR: Your letter of the 18th, and Lieut. Gilbert's communication of the same date, have been received.

You will observe by reference to my letter of the 14th, that I referred the subject matter of yours of the 8th to Commodore Shubrick; this I did because it was appertaining to that branch of the service which, under previous instructions, the President had placed under the direction of the Commodore, (see port regulations, revenue, &c.,) and my letter was the result of the conference we had upon the subject. As the recent instructions (the printed ones) from Washington make it the duty of the army and navy officers to collect the revenue, I think that, upon all questions that may arise in the discharge of those duties, that require a decision from a superior officer, reference must be made to the senior army or naval officer on the California station, according as the revenue may be collected in the port by the one or the other of the officers of the army or navy, under the supervision of their respective chiefs.

The Commodore and myself were of the opinion that the boats and goods of Mr. Leidesdorff were properly seized, &c., simply on the ground of landing without a permit; but we were not disposed to push the matter, if the goods were bought and landed upon the spur of the occasion, as was stated, and with the full intention of reporting the fact and paying the duties; but as it appears that most of the articles so landed were not on the ship's manifest, and that other parts of the cargo, from the same ship, had been previously landed without a permit and payment of duties, and which have since been found in Mr. Leidesdorff's store, the complexion of the whole affair becomes so materially changed that, upon a careful reconsideration, I must direct the rigid rule to be applied, and the goods to be confiscated; but I cannot find any regulation to confiscate the boats. The seventh article of the printed regulations confiscates goods landed, or attempted to be landed, without a permit, but it is silent about the boats in which the goods may be so landed. The boats in question, therefore, must be returned, as we cannot point to any regulation under which to confiscate them. Lieut. Gilbert's claim to one-half of the goods seized is utterly inadmissible; as well might he claim the reward for apprehending a deserter. He is an officer specially put on duty in connexion with the collection of customs, and it is his special duty to look out for and detect any violation of the revenue laws; for the performance of which service his pay and emoluments as a commissioned officer in the army are all that he is entitled to. The regulation on that subject never was intended to apply to a commissioned officer, only to enlisted soldiers, sailors, or citizens, who give to the revenue officers such information as enables them to seize and confiscate the goods, &c. It is true the regulations make no exception of the commissioned officer, nor does the regulation that offers thirty dollars reward for the apprehension of the

deserter, except the commissioned officers; but who ever heard of one claiming it; and if it was claimed, what disbursing officer would pay it; and if he did pay it, would it not very properly be charged to his account at the Treasury?

I am, sir, respectfully, your obedient servant,

R. B. MASON,
Colonel 1st dragoons, Governor of California.

CAPTAIN J. L. FOLSOM,
Assistant quartermaster, U. S. A., San Francisco.

P. S.—A negative answer is given to your question. Is it necessary to go before the alcalde to complete the forfeiture of the goods?

HEAD-QUARTERS, TENTH MILITARY DEPARTMENT,
Monterey, California, October 28th, 1847.

SIR: The points presented in your letter of the 22d instant, relative to additional duties at the different points in California, and duties on lumber, have been anticipated in the instructions sent to you to be printed.

I will give a special license to vessels under a foreign flag that are owned by citizens of the United States now residing in California, as also to citizens of California who actually reside in the country and own vessels under such flag, to trade on this coast, until the subject can be referred to the authorities at Washington and a decision had thereon.

The growth, produce, or manufactures of California, shipped from one port in California to another port in California, will be free of duty. If it is not too late, have this printed with the other instructions.

I am, very respectfully, your obedient servant,

R. B. MASON,
Colonel of 1st dragoons, Governor of California.

CAPTAIN J. L. FOLSOM,
Assistant quartermaster, U. S. A., San Fancisco.

HEAD-QUARTERS, TENTH MILITARY DEPARTMENT,
Monterey, California, October 14, 1847.

SIR: In examining your returns of customs, &c., collected at the port of Santa Barbara, for the second quarter, ending June 30, 1847, I find a discrepancy in the amount that you return as having received for anchorage, dues, visits, and clearances.

It appears from these returns that the Peruvian barque Joven Guypuzcoana, which registers 201 tons, cleared twice; her tonnage dues, at five cents per ton, would therefore amount to $20.10. The Danish brig Matiedor, of 130 tons, at the same charge, should have paid $6 50; and the Hawaiian schooner Mary Ann, of 57 tons, $2.85, making in the aggregate $29.45, which should have been properly charged for

tonnage dues. Instead of this your return of the total amount received for the same item is $12.90, a deficiency of $16.55.

Again, you return the total amount of fees received for visits and clearances at $10. It appears from the same returns that there were four clearances and three visits, which would have made the proper charge for this $14; another deficiency of $4.

By these calculations you should have collected $43 45; whereas you have charged yourself with but $22 90, as the total amount received for the above stated items. The deficiency, $20 55, you will please turn over to Captain Lippett, the commanding officer at Santa Barbara.

I am, respectfully, your obedient servant,

R. B. MASON,

Colonel 1st dragoons, Governor of California.

Don PEDRO CARRILLO,

Santa Barbara, California.

HEAD-QUARTERS, TENTH MILITARY DEPARTMENT,

Monterey, California, November 8, 1847.

SIR: I have received your communication of the 28th instant. I fully concur with you in the views therein expressed.

I have spoken to Mr. Green (indeed he read your letter) on the subject of the schooner Mary Ann's clearance. He states that the list of goods he signed were put on board her, and that those goods had paid the duties.

I wish you to collect all the evidence you can touching Richardson's delinquencies; as I intend, so soon as proper courts are established, to put his bonds in suit. In the mean time his salary must be withheld, even though he does settle such accounts as the books may show. Find out from Captain Davis and others what amount of duties they have paid.

I understand from Mr. Larkin that Davis has paid in the last year something like $5,000 duties to Richardson.

I enclosed you some papers yesterday received from Mr. Liedsdorff concerning the goods you seized. You are on the spot, and must necessarily know, better than I can from ex parte affidavits and statements, all the circumstances of the case. Mr. Leidsdorff says that he was ignorant of the existence of the police regulations for the harbors, &c., as you will see by his letter of the 1st instant. The regulations were signed by the Commodore and myself on the 15th of September, and sent off by the first opportunity to the collectors at San Francisco and other ports, and must have arrived in San Francisco on the 19th of that month, and were as well known there at the time the goods were seized as they were in the other ports, and just as well as were the regulations for the increase of duties from 15 to 20 per cent., signed by Commodore Shubrick, issued and sent to the collectors at the same time with the police regulations. In no other way have the instruc-

tions or regulations heretofore been published other than by sending them to the collectors of the different ports. I do not deem it necessary to give any additional instructions touching the case, unless you should have something to communicate after having read the papers herewith enclosed from Mr. Leidesdorff.

Please say to Mr. Leidesdorff, that being much pressed with business at present, I have not time to answer his letter of the first instant, and therefore desire that you will show him so much of this as concerns him.

The brig Elizabeth arrived here yesterday from San Francisco.

I observe some informality in her papers from the custom-house. You did not endorse on the manifest of her outward cargo, in addition to the certificate, that the manifest had been deposited with the United States authorities, that she had "permission" to sail for her port of destination, according to form 8. Again, on her manifest, there purports to be from 1 to 55 boxes, marked M, containing goods as per certificate. Enclosed is a copy of one of these certificates or bills. It does not show to whom the goods belong, nor does it give the mark or number of the box which contains them, so that we do not know in which of the 55 boxes to look for the articles. The certificate or bill should have contained the name of the owner and consignee, and given the mark and number of the box.

Make the shipper give the name of the consignee and number and marks of boxes, in future, on such bills and certificates.

I have received the printed copies of the extracts from the "police regulations" for the harbors, &c. By reference to the instructions for printing, you will observe that it was my intention to have these "police regulations," and the extracts from the printed instructions from Washington, form a little pamphlet, all under the head of "Extracts from the regulations for collecting the tariff of duties on imports and tonnage, &c.," and not to have them separate. However, it is too late now to remedy it. Please have the forms and the other extracts from the regulations from Washington sent down as soon as possible.

I am, respectfully, your obedient servant,

R. B. MASON,

Colonel 1st dragoons, Governor of California.

Captain J. L. FOLSOM,

Assistant quartermaster, U. S. A., San Francisco.

HEAD-QUARTERS, TENTH MILITARY DEPARTMENT,

Monterey, California, November 10, 1847.

SIR: I have received your communication, without date, relative to the ship "Confederacion" and her cargo. Beef, pork, bread, flour, butter, cheese, sugar, and rice were admitted into the ports of California free of duty, between the 1st of March and the 1st September last. Any of these articles not entered at the custom-house, and landed prior

to the latter date, must pay duties though the ship may have arrived on the coast or in port before that latter date.

All goods, merchandise, &c., not entered at a custom-house, and landed before the 15th of October ultimo, must pay the 20 per cent. duties.

Ships or vessels under foreign flags can go from port to port in California to sell the imported cargo, and take in cargo for exportation, but cannot carry freight or cargo from one port in California to another port in California to be there sold, landed, or reshipped.

I am, respectfully, your obedient servant,

R. B. MASON,
Colonel 1st dragoons, Governor of California.

RICHARD CARSON,
Supercargo Chilian ship Confederacion.

HEAD-QUARTERS, TENTH MILITARY DEPARTMENT,
Monterey, California, November 10, 1847.

SIR: I send herewith a copy of my letter of this date to Richard Carson, the supercargo of the Chilian ship Confederation, for your information and guidance; also a copy of correspondence between the Secretary of the Treasury and E. D. Brigham & Co., of Boston, H. S. Wetmore, of New York, and Marcus Morton, the collector of Boston, brought here by the barque Amita, under the official seal of the Boston custom-house. This correspondence contains some useful information. Take a copy of it, and then return it to me.

I am, respectfully, your obedient servant,

R. B. MASON,
Colonel 1st dragoons, Governor of California.

Captain J. L. FOLSOM,
Assistant quartermaster, U. S. A., San Francisco.

Circular to collectors of customs at the ports in California.

HEAD-QUARTERS, TENTH MILITARY DEPARTMENT,
Monterey, California, November 17, 1847.

The printed extract from the regulations for collecting the tariff of duties on imports and tonnage is herewith sent to you in that shape for the information of shipmasters and merchants. You will, therefore, give one copy to the master of each vessel arriving in your port. A vessel arriving in your port a second time need not be furnished with another copy.

The monthly statement of revenue collected, required to be sent to the War Department, will be forwarded through this office, and you will observe in the printed form of the monthly statement that the column of "value of imports" means the value at the port of entry; and

for the manner of filling up that form see the form as filled up in the printed pamphlet sent you a short time since.

I am, respectfully, your obedient servant,

R. B. MASON,

Colonel 1st dragoons, Governor of California.

HEAD-QUARTERS, TENTH MILITARY DEPARTMENT,
Monterey, California, November 19, 1847.

SIR: Your communication of yesterday is before me; in reply to which I have to say, that the product or manufacture of Mexico will be admitted into the ports of California, if brought in American vessels from the ports in Mexico that are in the possession of the United States' forces; if such products or manufacture are brought in vessels belonging to any other nation, the vessels are liable to seizure and confiscation.

I am, respectfully, your obedient servant,

R. B. MASON,

Colonel 1st dragoons, Governor of California.

ROB. WALKINSHAM,
Monterey.

HEAD-QUARTERS, TENTH MILITARY DEPARTMENT,
Monterey, California, December 6, 1847.

CAPTAIN: The merchants, shippers, and masters of vessels at your port do not currently make out their invoices, and manifests. The invoices do not, in many cases, describe the number of marks of the different boxes, packages, &c. The boxes and packages, and each article that [is] not boxed, or in packages, must be plainly marked and numbered. These marks and numbers must be expressed upon the invoice, and the invoice must show the actual contents of each box or package according to its respective number or mark, otherwise it is impossible to ascertain whether the goods are properly or fraudulently invoiced. The marks and numbers on the invoice must correspond with the marks and numbers on the manifests.

The column under the head of "quantity" on the manifest should express, when it is practicable to do so, the quantity or contents of the boxes or packages in yards, pounds, arrobas, gallons, &c., and not simply the number of the packages, as has generally been the case. The shippers must be more particular in their invoices, otherwise I shall be obliged to seize the goods as being improperly invoiced, or send them back to the port from whence they come. For fear that I have not clearly expressed myself, I send you herewith a manifest and invoice correctly made out and corresponding in every particular; by which you will see how easy it is for shippers and masters to comply with the regulation. I think it would be well if you were to give to each of the masters of vessels and merchants in your port, as there are not so very many of them, a copy of the manifest and invoice I

sent you, and require them in their future shipments to conform strictly to the manner of marking them. You will observe on the manifest that the boxes, &c., are described with their general contents, whilst on the invoice the contents of each box are particularized; the numbers and marks exactly corresponding with those on the manifest, as also the exact money value; I find the better plan is not to give vessels a separate manifest, for such cargo as they take in at port, unless they take in an entire cargo; but to enter on the manifest deposited in the custom-house such boxes, packages, &c. as they receive on board, according to their invoices, setting forth the name of the port, date, &c.

I am, respectfully, your obedient servant,

R. B. MASON,
Colonel 1st dragoons, Governor of California.

CAPTAIN J. L. FOLSOM,
Assistant quarter-master, San Francisco.

HEAD-QUARTERS, TENTH MILITARY DEPARTMENT,
Monterey, California, December 26, 1847.

SIR: I yesterday received your letter of the 21st instant, in relation to the goods seized from the schooner Mary Ann. I did not view your letter of the 28th October, as presenting the case for decision, but merely as mentioning the occurrence of seizure, &c., I do not deem it necessary that every seizure should receive confirmation from me before the goods are sold; the regulations are plain, and explicitly point out when the collector is authorized to seize and sell goods. He may with propriety suspend the sale when the owner of the goods protests against the seizure, and wishes himself to refer the matter to higher authority, though strictly speaking the regulations do not appear to have looked to higher authority, but to have made the collector the sole judge.

I have no recollection of receiving any letter from Captain Patty on the subject, and cannot find that one has been received.

I am, respectfully, your obedient servant,

R. B. MASON,
Colonel 1st dragoons, Governor of California.

Captain J. L. FOLSOM,
Assistant quartermaster, San Francisco.

HEAD-QUARTERS, TENTH MILITARY DEPARTMENT,
Monterey, California, December 28, 1847.

SIR: I have to acknowledge the receipt of your two communications of the 22d instant, in relation to the goods found on board the brig Henry, to be landed at Santa Cruz, a place where there was no custom-house; and there being no evidence that the duties had been paid, they were, as a matter of course, demanded here, a promise being given to refund upon satisfactory evidence being produced that the duties had

been paid. That being the milder course, the more rigid one was to have seized the goods, and if they exceeded in value one thousand dollars, to have confiscated the brig. And whether the duties had been paid or not, the goods were subject to seizure, if they had been landed at Santa Cruz without a permit from the collector here; and therefore, before allowing them to be landed, it was necessary to ascertain if the duties had been paid.

In answer to your interrogatories relative to the tonnage duties, it is proper to make your protests at the port complained of.

I am, respectfully, your obedient servant,

R. B. MASON,
Colonel 1st dragoons, Governor of California.

Mr. C. L. Ross,
San Francisco.

HEAD-QUARTERS, TENTH MILITARY DEPARTMENT,
Monterey, California, January 5, 1848.

CAPTAIN: Since my letter to you of the 28th October, on the subject of Lieutenant Gilbert's claim to a share of the merchandise seized from the English barque Janet, my opinion has undergone an entire change. This change has been wrought by my reading in Gordon's digest of the laws of the United States, that the revenue officers in the United States would, under similar circumstances, be entitled to a share of the condemned goods. (See Gordon's digest of the laws of the United States, edition of 1837, note to page 584, and pages 585 and 586.) I think one-half of the amount of the proceeds of the said goods would be allowed to yourself and Lieutenant Gilbert, for you are equally entitled to a share in your accounts with the War Department. When I directed that your monthly statement of revenue collected, intended for the Secretary of War, should pass through these head-quarters, I did not expect that it would be the means of causing a separation in your accounts. I will therefore consider those you have sent me as copies only of those you will send to the Secretary, and only require of you copies in future.

I am, very respectfully, your obedient servant,

R. B. MASON,
Colonel 1st dragoons, Governor of California.

Captain J. L. FOLSOM,
Assistant quartermaster, San Francisco.

HEAD-QUARTERS, TENTH MILITARY DEPARTMENT,
Monterey, California, January 10, 1848.

SIR: The making out of my custom-house accounts for the last quarter has brought the subject of accounts, the manner of making them, and the channel of transmittal to the War Department, more immediately to my attention than I before had time to give to the subject. The regulations of the subject of the kind of accounts required

are not very clear, except as to the making and transmittal of the monthly and weekly statements mentioned in the fifteenth article. From the letters of the Secretaries of War and Navy, of April 3d, I infer that it is proper that all the accounts of the custom-house officers should be transmitted through this office for approval before going to the Secretary of War.

The Secretary of the Navy in his letter directs such a course in relation to the Commodore and his officers; and the Secretary of War in his says, that the general instructions in the naval Secretary's letter are applicable to the officers and persons connected with each branch of the public service. Nothing is said about quarterly accounts, though they must necessarily be made.

Your monthly and quarterly accounts to the Secretary of War will therefore be transmitted through these head-quarters, and as I shall be able to obtain from them, before sending them off, all the information I require, you need make no copies for this office. Should you have sent off your accounts for the last quarter before this reaches you, send me a copy. I have given similar instructions to all the custom-house officers south of this, and furnished them with a form for their quarterly accounts current, and herewith send you a copy.

No returns are required from the custom-house under instructions given previous to the reception of these printed ones from Washington, except the abstract of disbursements.

I am, respectfully, your obedient servant,

R. B. MASON,
Colonel 1st dragoons, commanding.

Captain J. L. FOLSOM,
Assistant quartermaster, San Francisco.

Circular.

HEAD-QUARTERS, TENTH MILITARY DEPARTMENT,
Monterey, California, January 10, 1848.

A monthly statement of revenue collected, and a "quarterly account current," according to the "form" herewith sent, will be forwarded through these head-quarters to the Secretary at War, by the first mail that leaves your post after the end of each month and quarter to which they respectively refer. No copies of these accounts are required for this office previous to the reception of these printed ones from Washington, except the abstract of disbursements.

R. B. MASON,
Colonel 1st dragoons, Governor of California.

To the COLLECTORS *in the ports of California.*

HEAD-QUARTERS, TENTH MILITARY DEPARTMENT,
Monterey, California, January 12, 1812.

SIR: I must call your attention to your want of correctness in making out your papers. In your monthly statement of revenue received

for November, under the head of "date of arrival," instead of recording the year and day of the month, you write No. 1, No. 5, No. 27, opposite the names of vessels. Great care should be bestowed in examining papers and seeing that they are correct in every particular before sending them off. The want of care and attention in this respect causes much delay and trouble at these head-quarters.

In your letter of the 17th December you say, "private Stockton, mentioned above, bought $400 worth of comestibles, which he swore to me on oath were for his own private use, and not intended for resale. On the rest of his bill he paid duties regularly." The custom-house officers must not look to, nor have any transaction with, the purchasers of goods in collecting the duties; they must look to, and collect the duties only from, the owner or consignee.

Mr. Millens, not long since, presented a bill here for the payment of some articles purchased for the custom-house at San Diego, if my memory serves me right, by Don Pedro; please ask him what he did with the articles.

I am, respectfully, your obedient servant,

R. B. MASON,
Colonel 1st dragoons, Governor of California.

Lieutenant H. S. CARNES,
New York volunteers, Santa Barbara.

HEAD-QUARTERS, MILITARY DEPARTMENT,
Monterey, California, January 24, 1848.

SIR: Your letter of the 14th instant, transmitting your custom-house accounts for the War Department, is received. I examined them and found them correct, and have endorsed the account current and abstract of expenditure as follows: "Examined and approved, Monterey, January 23, 1848."

The form of the account current that I sent you with the circular of the 10th instant was not altogether correctly made. Make them in future as you have the one above mentioned for the Secretary of War; and I would suggest that you take your vouchers in triplicate to guard against the many accidents that might befal them before reaching Washington. Let the caption of your account current read as follows: "The United States in account current with Lieutenant H. S. Carnes, New York volunteers, acting assistant quartermaster, on account of the military contribution fund derived from customs at the port of Santa Barbara, California."

I am, respectively, your obedient servant,

R. B. MASON,
Colonel 1st dragoons, Governor of California.

Lieutenant H. S. CARNES,
New York volunteers, acting assistant quartermaster, Santa Barbara.

HEAD-QUARTERS, TENTH MILITARY DEPARTMENT,
Monterey, California, January 24, 1848.

SIR: I have received your letter of 18th instant. You are right about the account current, &c.; continue to make them out as heretofore, though I do not see the necessity of making two accounts current as you did for the fourth quarter of last year. I think one all sufficient if supported by two abstracts of expenditures, one on account of the custom-house proper, and the other for the usual civic expenditures. I shall send no papers involving a pecuniary responsibility to Washington, unless put up in an official mail, and entrusted to a responsible bearer of despatches, as I am aware of the many accidents that might befal them, and would, therefore, suggest the propriety of taking vouchers in triplicate.

I am certain that an endorsement by me on the accounts of the expenditures of the funds derived from the customs to this effect, "examined and approved," would go far to pass them at the War Department; they do not go to the Treasury. These accounts upon reaching me will always be acknowledged, and a copy of my remarks thereon furnished the disbursing officer. Should there be any vouchers requiring explanation, there will always be time to obtain it before an opportunity offers of sending it to Washington.

The caption of your account current would be better according to the following form:

"The United States in account current with Captain J. L. Folsom, assistant quartermaster, on account of the military contribution fund derived from customs at the port of San Francisco, California."

I am, respectfully, your obedient servant,

R. B. MASON,
Colonel 1st dragoons, Governor of California.

Captain J. L. FOLSOM,
Assistant quartermaster, San Francisco.

HEAD-QUARTERS, TENTH MILITARY DEPARTMENT,
Monterey, California, March 23, 1848.

SIR: I acknowledge the receipt of your letter of the 12th instant. When I said in my letter to you of the fifth January, "I think one-half of the proceeds of said goods would be allowed to yourself and Lieutenant Gilbert, for you are equally entitled to a share in your accounts with the War Department," I did not by any means intend it as a formal official decision in the case, but merely as the expression of my opinion that the Department would allow the claim if presented; because, if the identical same case had happened in the United States, one-half of the proceeds of the goods would have been equally divided between the collector, naval officer, and surveyor of the port, as you will see by a reference to the authority which I quoted. I wrote that letter giving you my views, and the reasons and authority upon which I based them, that you might make the claim if you chose, either by

making the charges in your account, or in any other way you might deem best; and that the whole ground might be before you pro and con, I called your attention to the latter part of article 19 of the printed regulations from Washington, which would seem to negative the opinion I had formed.

When Commodore Shubrick and myself framed the regulations giving to the informer one-half the proceeds of confiscated goods, we meant by the "informer" some one who would come and give information to the custom-house officers, the possession of which information would enable him to seize smuggled goods, and without such information the goods would not have been seized. When goods are seized and sold in consequence of such information given, the regulation authorizes you to pay one-half of the proceeds to such informer; and when the officer may be of opinion that he is entitled to a part of the proceeds, upon the ground that I think his claim rests as before stated, it is for the War Department to decide his claim, not me.

I am, respectfully, your obedient servant,

R. B. MASON,
Col. 1st dragoons, commanding.

Captain J. L. FOLSOM,
Asst. quartermaster, San Francisco.

HEAD-QUARTERS, TENTH MILITARY DEPARTMENT,
Monterey, California, April 13, 1848.

SIR: I have to acknowledge the receipt of your letter of the 8th instant. It is not in my power to comply with your request. I have so many applications of a similar character that I am obliged to refuse them all. In the one or two instances in which I have remitted the duties on importations, I may, when the custom-house officers' accounts are settled at the Treasury, be called upon to make good the amount of duties thus remitted. Were I to accede to all the applications that are made, I shall stand committed to the Treasury for thousands of dollars. The remission of duties by my order is nothing more than assuming the debt myself, if the amount is disallowed at the Treasury. This I cannot do, nor should it be asked of me.

I am, respectfully, your obedient servant,

R. B. MASON,
Colonel 1st dragoons, Governor of California.

MR. THOMAS DOUGLASS, *San Francisco.*

HEAD-QUARTERS, TENTH MILITARY DEPARTMENT,
Monterey, California, April 15, 1848.

SIR: Your accounts of the military contribution fund, derived from the customs for the 2d, 3d, and 4th quarters of 1847, and the first quarter of 1848, have been examined and approved by me, and will be forwarded to the War Department by Lieutenant Carson of the Mounted

Rifles, who will leave Los Angeles about the first of next month for Washington city.

I am, respectfully, your obedient servant,

R. B. MASON,
Colonel 1st dragoons, commanding.

Captain J. L. FOLSOM,
Assistant quartermaster, U. S. A., San Francisco.

HEAD-QUARTERS, TENTH MILITARY DEPARTMENT,
Monterey, California, April 21, 1848.

SIR: I have the honor to acknowledge the receipt of your communication of the 14th instant, together with the petition of the same date enclosed. I have no authority to make grants of land. My instructions confer no such power, nor could the President delegate any such to me, because the United States only holds the Californias as a military conquest, and no such authority can be rightfully exercised until the country becomes a part of the territory of the United States, and under her laws, and then only by an act of Congress. The precedent to which you refer me I thought at the time, and have always thought, was one improperly exercised.

I am, respectfully, your obedient servant,

R. B. MASON,
Colonel 1st dragoons, Governor of California.

R. SEMPLE,
Benicia city, California.

HEAD-QUARTERS, TENTH MILITARY DEPARTMENT,
Monterey, April 28, 1848.

SIR: I herewith enclose to you some modifications of the tariff, ordered by the President, as proposed by the Secretary of the Treasury, of the 5th of November, 1847, together with his orders for the collection of an export duty on gold and silver, as also recommended by the Secretary of the Treasury on the 16th of November, 1847. These documents were sent to me by Commodore Jones from Callao, as you will see by the extracts from his letter, accompanying the copies now sent you. The ad valorem duties now to be collected, according to the recommendations of the Secretary of the Treasury of the 5th of November, will render it necessary to closely examine vessels' invoices, and see that they are authenticated, as required by the 7th article of the regulations, and that all entries of merchandise are strictly made in conformity to "form" 3.

From Commodore Shubrick's letter to me of the 8th of February, and one of the same date from Hugh W. Green, collector at Mazatlan, to the Commodore, sent to me by the Commodore, with a copy of the printed tariff regulations from the Treasury Department of the 30th March, 1847, including amendments made by the Secretary of the Treasury and those by the Commodore's authority, it appears that the

latter has thrown open the coasting trade to all vessels. This I did not discover until your letter of the 21st, relative to the Chilian barque Natalia, brought me to look closer into the subject. This accounts for the Natalia being cleared by the collector at Mazatlan for San Francisco. I send you herewith one of the printed regulations from Washington, of the 30th March, 1847, corrected in red ink, copied from one Commodore Shubrick sent me, embracing the modifications of the 5th of November, 1847, and those made by the Commodore. I have been obliged to make this correction upon an old corrected copy; but the red ink will distinguish the present changes from the old black marks. All articles of merchandise now stand tariffed as in the print, except where the red marks indicate a change.

The regulation of the import trade, you recollect, was assigned to the senior naval officer by the Secretary of the Navy's letter to Commodore Stockton, dated November, 1846. Lumber, and the growth and produce of California, carried from port to port in California, will still continue free from duty, except it come from Lower California, where the people are in arms against us. Have some copies of Mr. Walker's recommendations to the President of the 5th and 16th of November printed, and send them to me for distribution as soon as possible. Send some to the islands, &c., when an opportunity offers. Have also some blank forms of No. 3, printed, so as to meet this change to the ad valorem duties.

Goods imported into California from the United States and other countries via the Sandwich islands, for instance, and then re-shipped and brought here, must pay duties according to the invoices from the latter port, and not according to the invoices from the original port. Having once been introduced into the foreign port, they must pay duties according to the valuation, &c., as shown by the properly authenticated invoices from that port. I mention this because a vessel arrived here some time since from the Sandwich islands with goods, some or all of which had been brought from the United States, and expecting to pay ad valorem duties, came prepared with two sets of invoices, one set from the United States, and one set from the island, the intention being to enter by the United States invoice, and sell by the one from the islands. I did not learn this until after she had sailed. Others will doubtless attempt the same thing.

I am, respectfully, your obedient servant,

R. B. MASON,
Colonel 1st dragoons, commanding.

Captain J. L. FOLSOM,
Assistant quartermaster, U. S. army, San Francisco.

A copy of the above letter has been furnished to the commanding officers at Santa Barbara and San Diego, and to the collector at San Pedro, for their information and government.

R. B. MASON,
Colonel 1st dragoons, commanding.

HEAD-QUARTERS, TENTH MILITARY DEPARTMENT,
Monterey, California, May 3, 1848.

SIR: I have received no report or returns from the custom-house in San Diego since you have commanded that post. The custom-house regulations are plain and explicit. Perhaps it may be that the Mormon officers did not turn over to you the regulations, &c., appertaining to that branch of the service. I was not able to get from them a single report or return from the custom-house whilst they were at San Diego.

I send you herewith a corrected copy of the regulations, a copy of the alterations of the tariff of the 5th and 16th of November, 1847, and the President's orders thereon, together with a copy of my letter of the 28th of April to Captain Folsom, for your information and government. You will also find here the necessary blanks for the use of the custom-house, as also a manuscript quarterly account current, and abstract of expenditures, showing the manner of making out those accounts, and accounting for the funds derived from the customs.

I beg that you will study the regulations well, and strictly comply with all their requirements. The quarterly accounts current are for the War Department, and are to be transmitted through this office. At the end of each month you must see that the disbursing officer sends promptly to this office a "statement of revenue collected" during the month, according to the printed form. You will see by reading the regulations, that the disbursing officer ascertains the amount of duties due, and the commanding officer receives them, and on the next day pays them over to the disbursing officer, and that they countersign each other's accounts.

The disbursing officer keeps the funds arising from the customs separate and apart from the funds arising from and belonging to the commissary and quartermaster departments, and expends them only upon orders from this office. Keep and regularly file all manifests, entries of merchandise, and permits to land the same.

Very respectfully, your obedient servant,

R. B. MASON,
Colonel 1*st dragoons, Governor of California.*

Captain WILLIAM E. SHANNON,
New York volunteers, commanding,
San Diego, California.

HEAD-QUARTERS, TENTH MILITARY DEPARTMENT,
Monterey, California, June 1, 1848.

SIR: I received last night your letter of the 26th instant. The copy of the tariff regulations corrected in red ink was made from one sent me by the Commodore. The discrepancies which you point out I presume were oversights, as you say, in making the alterations.

I send you herewith a little book with the tariff of duties alphabetically arranged, compiled by one of the custom-house clerks in New

York. You will find it more convenient than the printed tariff you have. I have corrected it in pencil, or at least I believe I have, in accordance with the Secretary of the Treasury's letter to the President, of the 5th November. If I have not in the corrections fully complied with that letter, you must supply the omissions yourself.

Your views in relation to the sea-going vessels trading in the bay, &c., are approved.

I have the honor to remain, your obedient servant,

R. B. MASON,
Colonel 1st dragooons, commanding.

Captain J. L. FOLSOM,
Assistant quartermaster, San Francisco, California.

STATE DEPARTMENT OF THE TERRITORY OF CALIFORNIA,
Monterey, July 18, 1848.

SIR: Your letter of June 16th has been received, and I am directed by the Governor to say, in reply to your question, that the duties are to be levied ad valorem on the invoices, and not on the gross amount of sales, as formerly. This question might have been readily settled by referring to Colonel Mason's letter to Captain Folsom, April 28, (a copy of which was sent to the commanding officer at Santa Barbara,) and to the printed pamphlet forwarded to Captain Lippett on the 2d June; and I am directed to say that those instructions are deemed sufficiently full and explicit.

Very respectfully, your obedient servant,

H. W. HALLECK,
Lieutenant of engineers, and secretary of State.

Lieutenant HENRY S. CARNES,
Collector, &c., Santa Barbara, California.

Know all men by these presents, that I, Richard B. Mason, colonel 1st dragoons, United States army, and governor of California, by virtue of authority in me vested, do hereby appoint Charles V. Gillespie notary public in and for the district of San Francisco.

Done at Monterey, the capital of California, this 29th day of July, A. D. 1848, and the 73d year of the independence of the United States.

R. B. MASON,
Colonel 1st dragoons, Governor of California.

STATE DEPARTMENT OF THE TERRITORY OF CALIFORNIA,
Monterey, July 29, 1848.

SIR: I have the honor to enclose herewith your appointment of notary public in and for the district of San Francisco.

Very respectfully, your obedient servant,

H. W. HALLECK,
Lieut. of engineers, and secretary of State.

C. V. GILLESPIE,
San Francisco, California.

Custom-house and port regulations for the harbors of California.

In the absence of the commander-in-chief of the Pacific squadron, the undersigned, in *in* virtue of authority in him vested, orders and establishes the following regulations for the police of the harbors of California, and for the better enforcement of the orders of the President of the United States respecting the collection of military contributions.

1. The collector shall visit all merchant vessels immediately on their arrival, and make the master of each vessel acquainted with such regulations as may be established from time to time for the police of the harbor.

2. Any disputes that may arise between the masters of merchant vessels in relation to anchorage or moorings, shall be decided by the collector.

3. If the master of any merchant vessel shall refuse or fail to obey the directions of the collector as to the anchorage or mooring of his vessel, he shall be fined not exceeding thirty dollars, or imprisoned not exceeding one week, for each offence.

4. If any master of a merchant vessel shall receive or connive at being received on board his vessel any deserter from the army or navy, or if such deserter shall be found concealed on board his vessel, the vessel itself shall be confiscated, and the master shall be tried by a military commission, and punished according to the laws of war.

5. If any person belonging to a merchant vessel, other than the master, shall receive or connive at being received on board any deserter from the army or navy, such person shall be tried by a military commission, and punished according to the laws of war.

6. Any person who shall entice any sailor or other person belonging to any vessel on the coast of California to desert, or who shall aid or abet in such desertion, or who shall knowingly receive or conceal, or assist in concealing such deserter, shall, on conviction before any judge, alcalde, or other civil magistrate, who may be authorized to issue warrants or try cases, be subject to a fine not exceeding five hundred dollars, and imprisonment not exceeding sixty days.

7. If any master of a vessel shall be detected in landing, or attempting to land, any where in California any goods or merchandise without permit from a collector, he shall be fined for every such offence in the sum of five hundred dollars, and the goods or merchandise so landed, or attempted to be landed, and the boat or boats through which such landing is effected or attempted, shall be seized, forfeited, and sold by the nearest collector.

8. If any person or persons other than the master of a vessel shall be detected in landing, or attempting to land, any where in California, any goods or merchandise, without permit from a collector, he or they shall be fined in the sum of one hundred dollars, and the goods or merchandise so landed or attempted to be landed, and the boat or boats through which such landing is effected or attempted, shall be seized, forfeited, and sold by the nearest collector.

9. In case goods or merchandise are landed or attempted, without permit from a collector, at a point distant from any port of entry, it shall be the duty of the nearest alcalde or other civil magistrate to seize, confiscate, and sell such goods and boats, and impose the penalties designated in the two preceding articles, in the same manner as is directed for the collector of a port.

10. On the arrival of any vessel whose cargo is subject to duty, the collector will notify the nearest commanding military officer, who, on receiving such notice, will immediately detail ,one or more non-commissioned officers or privates as a guard for such vessel. This guard will be instructed to allow no cask, box, or package, or other article of merchandise, to be removed from the vessel without a permit signed by the collector. These permits will be returned from day to day by the guard to the collector, for file in the custom-house.

11. Masters of vessels will be responsible for the conduct of their men while on shore or at liberty, and will be held accountable for the payment of any fines or forfeitures imposed on them for violations of law, or riotous or improper conduct.

12. The collectors will require the masters of all vessels, when clearing at the custom-house, to make oath to the correctness of their manifests, and that, to the best of their knowledge and belief, no gold or silver is on board, or about to be exported in their vessel, other than that set forth in their manifest.

13. All shippers and supercargoes will be required to make oath that their invoices and papers set forth truly and correctly the amount of all goods, merchandise, or other property, shipped on board the vessel about to be cleared. A similar oath may, at the option of the collector, be administered to any passenger or other person about to sail in such vessel. All baggage belonging to passengers will be examined at the custom-house before it is suffered to go on board, and the keys thereof be withheld until the custom-house guard is withdrawn from the vessel.

14. All gold and silver not mentioned in the manifest, and found on board of any vessel about clearing from port in California, or concealed in passengers' baggage, or otherwise secreted for the purpose of defrauding the revenue, will be seized and confiscated, together with the box, trunk or package, and all the contents of the same in which it may be found; and should the amount of gold or silver, so found on board of any vessel, exceed in value one thousand dollars, the vessel will be seized and confiscated.

15. Any collector who may have just and reasonable grounds for suspecting a vessel of having gold or silver on board for the purpose of defrauding the revenue, by exporting the same without paying the export duty, will detain and search such vessel, even, if necessary, to the unloading and examining of her entire cargo.

16. A similar examination will be made by any collector who may have satisfactory reasons for believing that any vessel trading in the ports of California has goods or merchandise on board not mentioned

in her manifest. And all such goods and merchandise, and the vessel upon which they may be found, will be subjected to the penalties mentioned in the article 12th of the tariff regulations.

17. The personal baggage of all passengers, or other persons, arriving in the ports of California, will be inspected at the custom-house, and any dutiable goods or merchandise which may be found in the possession of any such passengers, or other persons, and not on the manifest, will be confiscated, together with the box, trunk, or package in which it may be found.

18. Any master of a vessel who, after his clearance has been granted, shall communicate, or allow any other person to communicate, from his vessel with the shore, or with any other vessel in port, will be subjected to a fine of five hundred dollars, and the boat or boats through which such communication is effected will be confiscated. And any other person, other than the master of a vessel, who shall make such communication, shall be subjected to a fine of one hundred dollars, and the confiscation of the boat or boats as aforesaid.

19. Any person who shall visit a vessel arriving at a port of California before she has a custom-house guard or inspector on board, or before her manifest and papers are deposited at the custom-house, will be subjected to a fine of one hundred dollars, and the confiscation of the boat or boats used for such visit. Any person guilty of either of the offences mentioned in this and the foregoing article, will be imprisoned until said fines are paid.

20. The proceeds of all fines and confiscations imposed by military commissions, or otherwise, for offences designated in articles 4, 5, and 6 of these regulations, shall go for the exclusive benefit of the informer, the necessary expenses of court having previously been paid; an[d] in all other cases of fines or confiscations under these regulations, one-half of the proceeds shall go for the benefit of the informers.

21. All other custom-house and port regulations for the ports of California, as far as they conflict with these regulations, are hereby repealed.

Done at Monterey, California, this 26th day of July, 1848.

R. B. MASON,
Colonel 1st dragoons and Governor of California.

STATE DEPARTMENT OF THE TERRITORY OF CALIFORNIA,
Monterey, August 1, 1848.

SIR: I have to acknowledge the receipt of your letter of July 27th. Several of your inquiries are answered in the custom-house and port regulations, dated July 26th, and in the Governor's letter of July 31st, 1848.

All gold dust received by you in payment of duties, or on deposite, should be entered on your accounts as such, and carried out at the deposite value; that is, your account for so many dollars and cents in cash, and so many in gold dust, at so much per ounce.

From the difficulty, or rather the impossibility, of ascertaining the

value of this gold dust, the Governor authorizes you to receive the export duty in kind; that is, taking the required per centage out of each lot of gold dust exported.

Your decision in case of the English brig "Tepic" is approved, and the barrel of wine will be given up. You will institute a thorough examination of the Chilian brig Seis de Junia, as directed in the custom-house regulations, and subject her to such penalties as she may have incurred under the tariff regulations. The value of goods and merchandise not included in the manifest, and forfeited to the use of the United States, as directed in article 12th, tariff regulations, will be determined by the proceeds of the sales of the confiscated articles, and if these proceeds exceed the sum of one thousand dollars, the tariff regulations make it imperative on the collector to seize and confiscate the vessel. In all cases of confiscation, you should be careful to preserve the evidence upon which you act, so as to be prepared to meet any appeal to the authorities at home.

Very respectfully, your obedient servant,

H. W. HALLECK,
Lieut. of engineers and secretary of State.

Captain J. L. FOLSOM,
Collector, &c., San Francisco.

Proclamation to the people of California.

The undersigned has the pleasure to announce the ratification of a treaty of peace and friendship between the United States of America and the Mexican Republic, by which Upper California is ceded to the United States.

The boundary separating this country from Lower California "consists of a straight line drawn from the middle of the Rio Gila, where it unites with the Colorado, to a point on the coast of the Pacific ocean, distant one marine league due south of the southernmost point of the port of San Diego."

By the conditions of this treaty, those residing within the limits of this territory thus ceded, who may wish to become citizens of the United States, are absolved from all further allegiance to the Mexican Republic, and will, at the proper time, (to be judged by the Congress of the United States,) be incorporated into the Union, and admitted to the enjoyment of all rights and privileges granted by the Constitution to American citizens. Those who wish to retain the character of Mexicans will be left at liberty to do so, and also to retain their property in this territory, or to dispose of it and remove the proceeds thereof wherever they please; but they must make their election within one year from the 30th day of May last; and those who remain after the expiration of that year without declaring their intention to retain such character, will be considered to have elected to become citizens of the United States. In the mean time, they will be protected in the free enjoyment of their liberty and property, and secured in the free exer-

cise of their religion. They, however, are reminded, that, as war no longer exists, and as Upper California now belongs to the United States, they owe a strict obedience to the American authorities, and any attempt on their part to disturb the peace and tranquillity of the country, will subject them to the severest penalties.

The undersigned has received instructions from Washington to take proper measures for the permanent occupation of the newly acquired territory. The Congress of the United States (to whom alone this power belongs) will soon confer upon the people of this country the constitutional rights of citizens of the United States; and, no doubt, in a few short months we shall have a regularly organized territorial government; indeed there is every reason to believe that Congress has already passed the act, and that a civil government is now on its way to to this country, to replace that which has been organized under the rights of conquest. Such territorial government will establish all local claims and regulations which, within the scope of its legitimate powers, it may deem necessary for the public welfare. In the mean time the present civil officers of the country will continue in the exercise of their functions as heretofore, and when vacancies exist or may occur, they will be filled by regular elections held by the people of the several towns and districts, due notice of such elections being previously given. The existing laws of the country will necessarily continue in force till others are made to supply their place. From this new order of things there will result to California a new destiny. Instead of revolutions and insurrections, there will be internal tranquillity; instead of a fickle and vacillating policy, there will be a firm and stable government, administering justice with impartiality and punishing crime with the strong arm of power. The arts and sciences will flourish, and the labor of the agriculturist, guided by the lamp of learning, will stimulate the earth to the most bountiful productions. Commerce, freed from the absurd restrictions formerly imposed, will be greatly extended; the choked up channels of trade will be opened, and the poisoned fountains of domestic faction forever dried up. Americans and Californians will now be one and the same people, subject to the same laws, and enjoying the same rights and privileges; they should therefore become a band of brothers, emulating each other in their exertions to develop the wealth and resources, and to secure the peace, happiness, and permanent prosperity of their common country.

Done at Monterey, California, this seventh day of August.

R. B. MASON,
Colonel 1st dragoons, Governor of California.

STATE DEPARTMENT OF THE TERRITORY OF CALIFORNIA,
Monterey, August 9, 1848.

SIR: You will receive by the same express which brings you this a notification of the ratification of a treaty of peace, by which Upper California is ceded to the United States. Colonel Mason directs that you

will continue to perform the duties of collector of the port of San Francisco until further orders. You will hire such assistance as may be required for the performance of these duties, and pay for it out of the proceeds of the customs. The tariff of duties for the collection of military contributions will immediately cease, and the revenue laws and tariff of the United States will be substituted in its place. You will also, in making out your accounts, observe, as far as you may be able, the forms used in the custom-house and Treasury Department of the United States. No more gold dust will be received in payment or in pledge of payment of duties; the revenue must be collected in the same currency as in any other port of the United States. You will be relieved from these duties as soon as a successor can be appointed. Will you recommend some suitable citizen who will accept the office? As the duties of collector will be far less arduous than formerly, it is thought that a salary of about dollars will be sufficient. Bonds must be given by the collector for the sum of ten or fifteen thousand dollars. It is supposed that you will be able to procure a copy of the present tariff of the United States from some of the merchants of San Francisco. If not, one will be sent you from this place.

Very respectfully, your obedient servant,

H. W. HALLECK,
Lieutenant of engineers and secretary of State.

Captain J. L. FOLSOM,
Collector, &c., San Francisco, California.

STATE DEPARTMENT, TERRITORY OF CALIFORNIA,
Monterey, August 14, 1848.

SIR: I am directed by Governor Mason to acknowledge the receipt of your communication of July 3, enclosing the protest and papers of Jules Chanons. As the penalty of non-verified invoices was imposed by the custom-house officers, under an order of the President of the United States, the Governor does not consider himself authorized to remit it. With reference to the claims for surplus duties imposed on brandy in the port of San Francisco, it appears from the enclosed custom-house papers that no such duties were imposed, and that the claim is entirely unfounded

I have the honor, sir, to be, with high respect, your obedient servant,

H. W. HALLECK,
Lieutenant of engineers and secretary of State.

Mr. J. S. MOERENHOUT,
Consul of France.

HEAD-QUARTERS, TENTH MILITARY DEPARTMENT,
Monterey, California, August 14, 1848.

SIR: I have the honor to acknowledge the receipt, on the 6th instant, by an overland express sent from La Paz, Lower California, by

Lieutenant Colonel Burton, of the Secretary of War's letter of March 15, 1848. Accompanying this was one dated city of Mexico, May 24, 1848, signed by George W. Lay, A. D. C., informing me that the letter of the Secretary of War was entrusted to the United States commissioners, Messrs. Sevier and Clifford, and that General Butler desired me to "consider the transmission by them of this communication as equivalent to the official notification from himself."

The letters of the commissioners, dated city of Queretaro, May 30, 1848, informs me "that peace is definitely settled between the United States and the Republic of Mexico," and that the amendments made by our Senate have been acceeded to by the Mexican government, and of course constitute a part of the treaty."

I was therefore officially informed, on the evening of the 6th instant, that the war with Mexico was at an end, and that Upper California was ceded to the United States. I accordingly issued orders for the discharge of the regiment of New York volunteers, and all others whose periods of service end with the war; and also that the collection of revenue, as military contribution, should forthwith cease. A proclamation was then issued to the citizens of California, a copy of which you will find among my civil correspondence, dated August 7, 1848. Orders had previously been issued to Lieutenant Colonel Burton to embark his command for Upper California in the event of his receiving official intelligence of a treaty of peace, duly ratified, whereby Lower California is given back to Mexico, and the upper province retained. The first part of the Secretary's instructions were therefore anticipated, and I have now only to fulfil the latter part, viz., "to take proper measures with a view to its (Upper California's) permanent occupation."

The above are the only instructions I have received from the Department to guide me in the course to be pursued, now that war has ceased, and that the country forms an integral part of the United States. For the two past years no civil government has existed here, save that controlled by the senior military or naval officer; and no civil officers exist in the country, save the alcaldes, appointed or confirmed by myself. To throw off upon them, or the people at large, the civil management and control of the country, would most probably lead to endless confusions if not to absolute anarchy; and yet what right or authority have I to exercise civil control in time of peace in a Territory of the United States; or if sedition and rebellion should arise, where is my force to resist it? Two companies of regulars, every day diminishing by desertions that cannot be prevented, will soon be the only military force in California; and they will be of necessity compelled to remain at San Francisco and Monterey to guard the large depôts of powder and munitions of war which cannot be removed. Yet, unsustained by military force, or by any positive instructions, I feel compelled to exercise control over the alcaldes appointed, and to maintain order, if possible, in the country until a civil governor arrives, armed with instructions and laws to guide his footsteps.

In like manner, if all customs were withdrawn, and the ports thrown open free to the world, San Francisco would be made the depôt of all the foreign goods in the north Pacific, to the injury of our revenue and the interests of our own merchants. To prevent this great influx of foreign goods into the country duty free, I feel it my duty to attempt the collection of duties according to the United States tariff of 1846. This will render it necessary for me to appoint temporary collectors, &c., in the several ports of entry, for the military force is too much reduced to attend to those duties.

I am fully aware that, in taking these steps, I have no further authority than that the existing government must necessarily continue until some other is organized to take its place, for I have been left without any definite instructions in reference to the existing state of affairs. But the calamities and disorders which would surely follow the absolute withdrawal of even a show of authority, impose on me, in my opinion, the imperative duty to pursue the course I have indicated until the arrival of despatches from Washington (which I hope are already on their way) relative to the organization of a regular civil government. In the mean time, however, should the people refuse to obey the existing authorities, or the merchants refuse to pay any duties, my force is inadequate to compel obedience.

I must call your attention to my letter No. 19 of September 18, 1847, wherein these very dangers and difficulties were foreseen; and certainly the Department was fully advised of the fact that nearly the entire force of my command were entitled to their discharges immediately upon the reception of official information of the ratification of a treaty of peace.

I do not anticipate any rebellion or revolution on the part of the Californians, although the southern district must be entirely abandoned by the military force now there; and, in fact, the minds of all men are so intently engaged upon getting gold, that, for the present, they have not time to think of mischief; but if, on your receipt of this, measures have not already been adopted for giving this country a suitable government, I would earnestly recommend that it be done as soon as possible. Since writing my letter No. 19 above referred to, my mind has not changed as to the kind and character of force that should be stationed in California, only that since the discovery of these rich gold deposites the pay of troops sent to the country should be sufficient to prevent their deserting; for, so sure as men come here at seven dollars a month, they will desert, with the almost absolute certainty of being able to make ten or twenty dollars a day at the mines.

Your most obedient servant,

R. B. MASON,

Colonel 1st dragoons, commanding.

General R. JONES,

Adjutant general, Washington, D. C.

HEAD-QUARTERS, TENTH MILITARY DEPARTMENT,
Monterey, California, August 2, 1848.

SIR: The amount of labor at the custom-house at San Francisco is daily becoming more onerous, and the revenues collected are increasing so rapidly that it is impossible for Captain Folsom to acquit himself of the heavy responsibilities now resting on him unless he receives a great deal of assistance.

This assistance must of necessity come from the military garrison, and Colonel Mason directs that Lieutenant Gilbert, of company H, 1st New York volunteers, be detailed to assist Captain Folsom in the performance of the duties of collector of the port of San Francisco, and, if Captain Folsom desires it, Lieutenant Roache, of company C, be also detailed for the same duty.

He also wishes you to furnish, upon Captain F's application, such non-commissioned officers and men as may be necessary to guard the revenues from fraud.

The details will fall heavily upon your reduced command, and you are accordingly authorized, at any moment you think proper, to break up the post of Sonoma, leaving a non-commissioned officer and from six to ten men to assist the alcalde of the town.

The detail of Lieutenant Gilbert will leave Captain Frisbee without a subaltern. You can assign one of the lieutenants of Captain Dimmick's company to Frisbee until other officers arrive from the United States.

Colonel Mason wishes you to consult with the assistant quartermaster as to the propriety of breaking up the town guard altogether, and to protect the public property by detailing, on extra duty, three or four good men to work at the storehouse by day and to sleep there at night.

I have the honor to be, your most obedient servant,
W. G. SHERMAN,
First lieutenant 3d artillery, A. A. A. General.

Major James A. HARDIE,
Commanding northern military district,
San Francisco, California.

HEAD-QUARTERS, TENTH MILITARY DEPARTMENT,
Monterey, California, August 2, 1848.

SIR: Your letter of the 25th July was received on the 31st ultimo, and has been laid before Colonel Mason, who directs me to inform you that he cannot possibly relieve you from the duties of collector of the port of San Francisco. He is fully aware of the heavy additional labor and responsibility imposed upon you by that office, but the number of disbursing officers at his command is so small that no other than yourself can be stationed at San Francisco. But Colonel Mason is willing to give you every assistance possible in the way of details of officers and soldiers, but he cannot sanction the payment to them of any fee,

"charge, commission, or compensation of any kind," for the performance of those duties, as it would be in direct violation of the latter part of the 19th paragraph of the regulations for collecting the revenue.

He is satisfied that soldiers should be paid for such extra duties, and he will recommend to the Department that a suitable daily allowance be made to soldiers employed in duties pertaining to the collection of revenues and that this regulation should have a retrospective effect, so as to compensate those who have hitherto been employed as guards, clerks, &c.

Major Hardie will be instructed to detail Lieutenant Gilbert as your assistant, and also Lieutenant Roach, if you request him to do so; and he will be directed to detail, upon your application, a sufficient number of non-commissioned officers and privates from his command, to act as sentinels, guards, clerks, &c., at the custom-house of San Francisco, even if it be necessary to break up the post of Sonoma.

Major Hardie is also directed to consult you as to the propriety of breaking up the town guard, and giving you a sufficient number of trustworthy men, on extra duty, to sleep by night at the storehouse in the town, and to work, subject to your orders, during the day. When orders, No. 40, were issued, removing company H from San Francisco to Sonoma, it was not contemplated that it would take Lieutenant Gilbert from your office, as he still remained under the command of Major Hardie, and, therefore, liable to be detailed under special orders, No. 22, of September, 1847.

Lieutenant George Stoneman, first dragoons, will be on the Sacramento towards the latter part of this month, with twenty-five men and about sixty horses and mules. It is designed to keep those horses in fine order so that Lieutenant Stoneman may act with energy; and Colonel Mason wishes you to send to some point on the Sacramento, below Sutter's, a quantity of hay and grain, with enough lumber, nails, &c., to build a shed for this command.

Lieutenant Stoneman will take with him from here one or more wagons, so as to haul his lumber to a suitable point for the prosecution of his plan of operations, and likewise to transport his provisions. He will be instructed to draw on you for subsistence, and will communicate with you, by letter, as to the best mode of drawing these provisions, most probably by monthly returns, to be delivered at certain times at Sutter's embarcadero, when he can have his wagons there to receive them. No provisions need be sent in advance, or until he communicates with you.

I have the honor to be, your obedient servant,

W. G. SHERMAN,

First lieutenant 3d cavalry, A. A. A. general.

Captain J. L. FOLSOM,

Assistant quartermaster, San Francisco, California.

Know all by these presents, that I, R. B. Mason, colonel 1st dragoons, and governor of California, in virtue of authority in me vested,

do hereby appoint Edward H. Harrison temporary collector of the port San Francisco, California, with the salary of two thousand dollars per annum, provided that that sum is collected in said port over and above the expenses of the custom-house of the port.

Given at Monterey, this 3d day of September, 1848.

R. B. MASON,
Colonel first dragoons, and Governor of California.

STATE DEPARTMENT, TERRITORY OF CALIFORNIA,
Monterey, September 3, 1848.

SIR: I enclose herewith an appointment of collector of the port of San Francisco. You will be required to give good and satisfactory bonds to the amount of fifteen thousand dollars before entering upon the duties of your office. Your regular monthly and quarterly papers will be made out and submitted for examination and approval to the quartermaster at San Francisco, who will endorse and forward them to Washington through this office. The proceeds of the customs, after the payment of all the necessary and proper expenses of the custom-house, will be turned over to the quartermaster as above, at the end of every month, and the receipts of that officer will be good and sufficient vouchers in the settlement of your accounts.

Very respectfully, your obedient servant,

H. W. HALLECK,
Lieutenant of engineers and secretary of State.

EDW. HARRISON, esq.,
San Francisco, California.

HEAD-QUARTERS, TENTH MILITARY DEPARTMENT,
Monterey, California, September 5, 1848.

SIR: The barque Callao has been admitted to entry in this port. Mr. Huttman having given bond, according to law, for the production within eight months of the invoice of the cargo, properly authenticated before the United States counsel, &c.

A vessel entering a port in California, and landing a part of her cargo, may proceed to other ports in California and land the remainder, without the payment in other ports of any additional tonnage duties or those denominated "light money." Her entrance and clearance and other fees in the other ports will of course be paid.

I am, respectfully,

R. B. MASON,
Colonel 1st dragoons, &c.

To the COLLECTOR *of the port of San Francisco.*

STATE DEPARTMENT OF THE TERRITORY OF CALIFORNIA,
Monterey, September 7, 1848.

SIR: I am directed to acknowledge the receipt of your letter of the 5th instant, proposing to the Governor the following questions:

First. Can American goods so bonded in warehouses in Chili, Peru, &c., be reshipped into American bottoms, and brought into California free of duty?

Second. Can American goods, so bonded in warehouses, be brought in foreign bottoms into California free of duty?

As a reply to the first of these questions, I enclose you herewith a copy of so much of the act of 2d March, 1799, as relates to this subject, by which it appears that goods of American growth and manufacture, which have been exported from the United States, may be returned again, under certain conditions, free of duty. It is believed that this law is still in force; at least it is not known that it has ever been repealed.

With respect to the second question, the Governor is of opinion that to bring goods, so bonded in Chili, Peru, &c., in a foreign vessel to a port in California free of duty, would be an interference with the coasting trade, which, by law and treaty stipulations, is reserved exclusively to vessels of the United States. It would evidently be unlawful for a foreign vessel to receive the cargo, or any part of the cargo, of a coasting vessel, during her voyage, and carry it to an American port; and, it is believed, that it would be equally improper for a foreign vessel to receive American goods which have been put in depôt in the usual route between any two ports of the United States, and to enter them in an American port, with the same privileges as a coasting vessel of the United States.

The subject, however, will be referred to the Secretary of the Treasury, by the earliest opportunity, for his decision in the case.

Very respectfully, your obedient servant,

H. W. HALLECK,
Lieutenant of engineers and secretary of State.

Mr. F. HUTMAN,
San Francisco, California.

HEAD-QUARTERS, TENTH MILITARY DEPARTMENT,
Monterey, California, July 31, 1848.

GENTLEMEN: Your communication of the 22d, together with its enclosure, has been received.

I will instruct the collector at San Francisco to receive gold dust in payment of duties at the custom-house, with the privilege reserved to the payer of redeeming one-half by a payment to the collector in gold or silver coin, any time within ninety days, and the other half by a like payment any time within 180 days. This, however, is to be a mere temporary arrangement, owing to the present scarcity of coin in the country. It would give me pleasure to comply fully to the wishes expressed by the public meeting held at San Francisco on the night of the 21st instant, by making the whole redeemable at 180 days, but it would have the effect of entirely cutting off the receipts of any available funds in the custom-house for six months to come. That is a longer period than it will be prudent to dry up the only source of revenue that

the country affords, and would be too wide a departure from my instructions, which are very positive, to collect the duties "exclusively in gold and silver coin" before the goods, wares, and merchandise leave the custody of the collector, or in other words before they are suffered to go into the market. I am willing to allow the goods to go at once into the market, and to wait three and six months for the duties, although I am ordered to collect them in cash; provided the gold dust is taken at a rate low enough to make it certain that the merchant will redeem it at the stipulated time, and if he does not, that there will be no doubt that the duties can be realized at once by putting it up at auction, if the money be immediately required. You will readily perceive the situation in which I am placed. A large amount of duties will be received at San Francisco. Should some ten or twenty thousand dollars of this gold dust received at the custom house, reckoning at the rate per ounce at which it will be received, fail to be redeemed at the stipulated time, and I should be forced by the want of funds to throw suddenly this large amount into market to be sold for cash, and it should not bring this sum, I at once become and am held personally and individually responsible and accountable to the Department at Washington for the loss sustained, in consequence of the departure from my orders and instructions.

I am very sure that none of the merchants of your town would desire to see me assume a risk of becoming pecuniarily involved by departing from my instructions for their accommodation; and therefore I feel by departing from my orders in this instance, in permitting goods, wares, and merchandise to go at once into the market, and waiting three and six months before the duties can be realized, that the precautions I take to guard both the public and myself from any loss are not unreasonable, or greater than the occasion calls for.

I shall strongly recommend, in my first communication to the Department, the immediate establishment of a mint in Upper California.

I am, respectfully, your obedient servant,

R. B. MASON,

Colonel 1st dragoons and Governor of California.

W. D. M. HOWARD, C. V. GILLESPIE, and
JAMES C. WARD,
San Francisco, California.

STATE DEPARTMENT, TERRITORY OF CALIFORNIA,
Monterey, September 10, 1848.

SIR: I am directed by the Governor to acknowledge the receipt of your letter of the 7th, and to inform you that a sea letter or other document may be given to an unregistered vessel owned by citizens of the United States. Vide Gordon's Digest, art. 1, 788.

In order that a vessel may receive a new registry she must belong

exclusively to citizens resident of the United States, and be an American bottom. For conditions, &c., vide Gordon's Digest, art. 1, 361, 70.

Very respectfully, your obedient servant,

H. W. HALLECK,
Lieutenant of engineers and secretary of State.

Mr. C. L. Ross,
San Francisco, California.

STATE DEPARTMENT, TERRITORY OF CALIFORNIA,
Monterey, September 10, 1848.

SIR: In reply to your letter of September 7, the Governor directs me to say, that the provisions of the first section of the act of March 1, 1817, will not be enforced against vessels which actually sailed from the ports of California during the war for cargoes expressly for this market, and which have not in the mean time been engaged in any other trade.

As soon as the time of redemption of the gold dust in your hands, received in deposite as security of the payment of duties expires, you will give due notice, and sell it at public auction. In order that there may be no loss to the revenue you will bid it in at the value for which it was deposited. If it sells for more, the surplus, after the expenses of sale are deducted, will be paid over to the depositor.

The gold dust received in payment of duties with the privilege of redemption of course becomes the property of the United States, if not redeemed at the expiration of the time specified without any sale.

Respectfully, your obedient servant,

H. W. HALLECK,
Lieutenant of engineers and secretary of State.

Captain J. L. FOLSOM,
San Francisco, California.

HEAD-QUARTERS, TENTH MILITARY DEPARTMENT,
Monterey, California, September 14, 1848.

SIR: I have just received a communication from the merchants of San Francisco on the subject of the manner in which the ad valorem duties are estimated in your port, and enclosing me a copy of the fifth section of "an act for regulating the collection of duties on imports and tonnage," passed March 1, 1823.

I enclose you herewith a copy of the fifteenth section of an act of Congress of the 4th of July, 1832, and a copy of the eighth section of the bill reducing the duties on imports, and for other purposes, passed July 29, 1846. These are believed to be the latest laws upon the subject, and of course repeal the fifth section of the act of March 1, 1823. Any duties, therefore, collected under the fifth section of this latter act should be refunded.

Very respectfully, your obedient servant,

R. B. MASON,
Colonel 1st dragoons and Governor of California.

COLLECTOR OF SAN FRANCISCO, *California.*

STATE DEPARTMENT, TERRITORY OF CALIFORNIA,
Monterey, September 19, 1848.

SIR: I have to acknowledge the receipt of your letter of the 16th, relating to the admission of the French brig New Perseverance, and the British brig Tepic.

It is believed, and that belief is confirmed by the positive assurances of the French consul, that American vessels are permitted to enter French ports with cargoes not from ports of the United States. The New Perseverance is therefore entitled to enter her cargo.

With respect to the British brig Tepic, the Governor directs your attention to his decision as communicated on the 10th instant: "That the provisions of the first section of the act of March 1, 1817, will not be enforced against vessels which actually sailed from the ports of California during the war for cargoes expressly for this market, and which have not in the mean time been engaged in other trade." If, however, official news of the peace should have reached the port of lading previous to the departure of the vessel, she ought not to be permitted to enter. But, before prohibiting the entrance of the vessel, the collector should satisfy himself that the official, or at least very authentic, news of peace was actually received; mere reports or rumors of peace should not be deemed sufficient to effect the prohibition. The policy in this respect should be a liberal one.

It is believed that the retaliatory law of March 1, 1817, is only applicable to English vessels.

Mr. H. Grimes has petitioned to have his furniture admitted free of duty. For the decision in this case, you are referred to the tariff of 1846, words "household furniture, old and new."

You will be pleased to communicate to the parties concerned the Governor's decision, as above.

Very respectfully, your obedient servant,

H. W. HALLECK,
Lieutenant of engineers and secretary of State.

E. H. HARRISON,
Collector, San Francisco, California.

STATE DEPARTMENT,
Territory of California, Monterey.

SIR: I have to acknowledge the receipt of your letters of the 12th instant, relating to business of the custom-house.

The collector has full authority to allow the correction of clerical errors in invoices; and as you are satisfied of there being such an error in the invoice of Messrs. Starkey & Janion, the Governor is of opinion that you ought to refund to the parties the amount of over-payment of duties.

If you are satisfied that the articles of female clothing, which you mention as belonging to Mrs. Grimes, were actually brought to this coast previous to the reception of the official news of peace, and that

they are not for sale, it would seem proper that they be allowed to pass free of duty. You say that most of them are old, and altogether of little value. It would, therefore, seem that they are of the character of personal baggage, rather than merchandise.

Very respectfully, your obedient servant,

H. W. HALLECK,
Lieutenant of engineers and secretary of State.

Captain J. L. FOLSOM,
United States army, San Francisco, California.

STATE DEPARTMENT OF THE TERRITORY OF CALIFORNIA,
Monterey, September 26, 1848.

SIR: In reply to your letter of the 20th, I have to inform you that the Governor is of the same opinion with yourself, that the iron bottles, imported in the "Cayuga," if taken from the warehouse and used in the country, cannot be considered as entitled to drawback.

It is not the intention to erect at the present time any new storehouses, and goods cannot be warehoused beyond the amount of accommodation afforded by the public stores. It is hoped that we may receive some act of Congress on the subject in the course of a very short time. It is known that, just at the present time, the most enormous wages are demanded for clerk hire, &c., but it is hoped, after a little time, services may be procured at more reasonable rates. In the mean time, you must have assistance, and the only restriction which it is intended to impose in this respect is, that you will not increase the number of your employés beyond what is absolutely necessary, and that you hire them at as cheap rates as you can.

Your own certificate, countersigned by Captain Folsom, will be deemed sufficient evidence of the necessity of the service and the propriety of the wages paid.

Very respectfully, your obedient servant,

H. W. HALLECK,
Lieutenant of engineers and secretary of State.

E. H. HARRISON, esq.,
Collector, &c., San Francisco.

STATE DEPARTMENT OF THE TERRITORY OF CALIFORNIA,
Monterey, September 25, 1848.

SIR: I am directed by the Governor to acknowledge the receipt of your letter of the 20th instant, asking for information relative to the registering and licensing of vessels on the coast of California.

1. The Governor has determined, under existing circumstances, that he will not register any vessel, but will forward all applications for registry or reregistry to the authorities at Washington; and if, in his opinion, the vessel is entitled to registry, he will grant a sea-letter or license, which will enable her to wear the American flag, and to engage in trade as an American vessel. In order to the registry of a

vessel, the owner or one of the owners, shall take and subscribe to an oath, declaring, according to the best of his knowledge and belief, her name and burden; the time when and the place where she was built; declaring also his own name and place of abode, (or if more than one owner, the name and abode of each;) and that he or they so swearing are citizens of the United States; and that there is no subject of any foreign State, directly or indirectly, by way of trust, confidence, or otherwise, interested in such vessel, or in the profits thereof; and that the master is also a citizen of the United States. If the master be within the district when the application for the registry is made, he himself must make oath to the fact of his citizenship. If the master or owner is a naturalized citizen, this fact, and when he became so, must be stated. None but American bottoms, or vessels adjudged to be forfeited for breach of the laws of the United States, can be registered; moreover, they must belong exclusively to citizens resident in the territory of the United States, or, if residing abroad, to a consul or other public agent, or an agent or partner in some house of trade or co-partnership, consisting of citizens of, and actually carrying on trade within, the United States. If the owner be a naturalized citizen of the United States, and reside more than one year in the country from which he originated, or more than two years in any other foreign country, unless he be a consul or other public agent, he cannot register. But this last prohibition does not prevent the registering anew any vessel before registered, in case of bona fide sale thereof to a citizen (whether native or naturalized) resident in the United States, and exhibiting satisfactory proof of his citizenship; and if such citizen, now actually resident in the territory of the United States, can register anew a vessel purchased by him, it is inferred that he may register anew any American bottom owned by him previous to his resuming such residence.

In all applications of this kind, the facts must be clearly stated and sworn to, and the application be accompanied by the necessary proof, to enable the Governor to judge of the probability of her receiving a new register, and whether, under the circumstances, a sea letter should be granted. It may be proper to remark in this place that, in case any matter of fact alleged in the application and sworn to be not true, the vessel and tackle, and furniture, &c., shall be forfeited. (Vide Gordon, book IX, chap. II.)

2. It appears that an unregistered vessel, which is owned exclusively by citizens of the United States, may, under certain circumstances, receive a sea letter or other document proving her to be American property, and that, with such document, she shall be entitled to certain privileges of trade; but that, on the entry of every such vessel from every foreign place, oath shall be made that such sea letter or document contains the name or names of all the owners of such vessel, (or, in case any part has since been sold, the fact must be stated on oath,) and that no foreign citizen or subject has any share, by way of trust, confidence, or otherwise, in such vessel.

If such oath be refused, she shall not be entitled to privileges specified. (Vide Gordon, chap. 13, sec. 1.) It is believed that the schooner Star comes under the provisions of this act, and that her consular license does not exempt her from duty when she enters an American port, unless the foregoing oath be given. When Louisiana and Florida became a part of the territory of the United States, provision was made by acts of Congress for the registry, enrolment, and license of vessels belonging to the inhabitants of the respective Territories; and it is presumed that a similar act has already been passed with respect to California. Again: There are sometimes special instances where vessels are in justice entitled to registry, but do not come within the requisitions of the law. In all such cases a special act of Congress is required to authorize the registry, and more or less such acts are passed at every session. But some time must elapse before the action of Congress respecting the registry of vessels belonging to the citizens of California can be known here; and, until a regular mail is established between this coast and the Atlantic States, no inconsiderable delay must be experienced in learning the result for an application for a special act of registry.

It would seem exceedingly rigorous and unjust that vessels thus situated should be shut up in port for so many months, especially when they are so much needed for carrying on the commerce of the country. The Governor has accordingly decided that, where vessels are owned exclusively by citizens of California, he will, on application, accompanied by the proper proof being made through him to the proper authorities in Washington for registry or reregistry, grant sea letters or other documents for their protection, till such time as the result of such application can be known. In all cases, however, the vessels must exclusively be the property of citizens of the United States or of California, and now actually resident within the territory of the United States. If any citizen or subject of any foreign State, directly or indirectly, by way of trust, confidence, or otherwise, be in any way interested in such vessel, or in the profits thereof, no such sea letter or license will be granted.

3. It may be proper to remark here, that, without a register, a vessel in foreign trade is not entitled to all the privileges and benefits of a ship of the United States, but in other respects she is recognised by law. The extent of her privileges depends upon the character of the document given, and the nature of the authority granting it.

A license to coast would not authorize a vessel to engage in foreign trade, nor a license for a foreign voyage authorize a vessel to engage in the coast trade of the United States. But under existing circumstances, and until the action of Congress shall be known, the Governor has decided to consider Upper California as a single district, and to allow all American vessels to trade from one port to another. A foreign vessel entering at one port will be allowed to discharge any portion of her cargo in another port. The coast of Upper California will, in respect

to coasting and foreign trade, be regarded in the same light as the northern frontier of the United States.

The effect of a sea letter, license, or other document, in giving protection to a vessel in time of war, depends upon the competency of the authority which issues them. As a general rule this document, in order to afford protection, must proceed from the sovereign authority of the State; but this authority, says Wheaton, "may be vested in military or naval officers, or in certain civil officers, either expressly or by inevitable implication. From the nature and extent of their general trust, such documents are to be interpreted by the same rules of liberality and good faith as other acts of the sovereign power."

It has been decided in the British courts of admiralty that an instrument granted by a consul cannot protect the property of an enemy beyond the consular district, and on the high seas. Neither does an admiral or other naval commander possess authority to give protection beyond the limit of his own station; nor can a minister resident in a foreign country give protection to the vessel of a belligerant found on the high seas. The authority to exempt the property of enemies from the effect of hostilities can only be exercised, says Wheaton, "either by those who have a special commission granted to them for the particular business, and who, in legal language, are called mandatories, or by persons in whom such a power is vested in virtue of any situation to which it may be considered incidental." What would be the exact extent of the protection afforded in time of war by a license or sea-letter proceeding from the existing government of California, it is not now easy to decide; but in time of peace, and to all American vessels, there can be no doubt that such document will serve as a safe conduct on the high seas, and will confer full authority to trade within the specified limitations of time, persons, and places. (Vide Wheaton, part 4, chap. 2.) Very respectfully, your obedient servant,

H. W. HALLECK,
Lieutenant of engineers and secretary of State.

E. H. HARRISON, esq.,
Collector, San Francisco, California.

STATE DEPARTMENT OF THE TERRITORY OF CALIFORNIA,
Monterey, October 4, 1848.

SIR: Messrs. E. & H. Grimes have applied for permission to remove the brig "Euphemia" from San Francisco to the embarcadero, near Sutter's fort, for the the purpose of converting her into a store vessel. The Governor sees no objection to this; but no vessel can be licensed to engage in the coast trade unless she be owned exclusively by American citizens, as stated in my letter of September 25.

Very respectfully, your obedient servant,

H. W. HALLECK,
Lieutenant of engineers and secretary of State.

E. H. HARRISON, esq.,
Collector, San Francisco, California.

HEAD-QUARTERS, TENTH MILITARY DEPARTMENT,
San Francisco, California, November 25, 1848.

SIR: In reply to your letter of the 7th instant, (not yet received, but a copy of which you have just shown me,) I have to say that you were right in seizing the goods you mention. As the value of them is not great, I have no objection to their being restored to the owner, upon his paying the proper duties. He not attempting to introduce the goods into the country without the knowledge of the custom-house officer, it may be possible, though perhaps not probable, he did not premeditate a fraud; and I do not deem the amount of sufficient value to detain and bring him before a court.

I am, respectfully, your obedient servant,
R. B. MASON,
Colonel 1st dragoons, commanding.

Captain J. L. FOLSOM,
Assistant quartermaster, San Francisco.

STATE DEPARTMENT OF THE TERRITORY OF CALIFORNIA,
Monterey, December 5, 1848.

SIR: I am directed by Governor Mason to acknowledge the receipt of your letter of November 7, asking for instructions respecting the disposition of your custom-house accounts. By referring to my communication to you, dated September 3, 1848, you will find that it is directed that the quartermaster at San Francisco "endorse and forward your accounts to Washington through this office;" and, in the letter of instructions to Captain Folsom, dated August 21, it is stated "the returns and papers of the collector will be endorsed by you and forwarded to Washington through this office." A copy of your bond should also have been sent here for file.

Very respectfully, your obedient servant,
H. W. HALLECK,
Lieutenant of engineers and secretary of State.

E. H. HARRISON, esq.,
Collector, San Francisco, California.

STATE DEPARTMENT OF THE TERRITORY OF CALIFORNIA,
Monterey, December 28, 1848.

SIR: I have to acknowledge the receipt of your letter of the 18th instant, asking for information as to your responsibility in examining the accounts of the collector of San Francisco.

Previous to the enforcement of the "military contribution tariff," and when civilians performed the duties of collectors in California, it was deemed necessary that some military officer, at each post, should have a general supervision of accounts of the collector, in order to check any extravagant expenditures or improper use of the public money; and on returning to this system of collecting the revenue, at the close

of the war, the Governor deemed it necessary to establish the same check as before, and your relations towards the new collector became the same as they had been towards Mr. Richardson.

The great length of time required in communicating with Washington renders it absolutely necessary that some one here should supervise the accounts of the collector, and immediately report anything that he may think improper or incorrect. The extent of this examination must depend on the circumstances of the case, and should in all cases be sufficient to satisfy the officer of the correctness of the collector's accounts, for otherwise he cannot endorse them with his approval. From your position in San Francisco, it is presumed that you will be able to judge whether the expenditures of the collector for clerk hire, &c., are just and necessary; if so, you will approve the accounts, and if not, you will forward them, with your reasons for not approving them.

The nature and extent of your duties were pointed out in my letters of August 21 and September 3. In the latter it is stated, that you will allow all necessary and proper expenses connected with the collector's office, and that, in requiring your endorsement and approval of the expenditures of the collector, it was intended merely to keep those expenditures within proper limits.

Very respectfully, your obedient servant,

H. W. HALLECK,

Lieutenant of engineers and secretary of State.

Captain J. L. FOLSOM,

United States army, San Francisco.

HEAD-QUARTERS, TENTH MILITARY DEPARTMENT,

Monterey, California, January 1, 1849.

SIR: I have the honor to acknowledge, late last night, the receipt of your letter of the 27th of December, together with its enclosures.

I herewith return you a duplicate of the paper marked "A," as you requested, signed by myself, having also signed the one you sent me, and placed it on file here.

I fully agree with you in "doubting the expediency of enforcing any more stringent revenue rules and regulations than the several acts of Congress provide for;" and that it is "not advisable to enforce with much rigor the provision of the laws of the United States, as expressed in the articles 4, 7, and 8, of the series of regulations proposed by Mr. Harrison." Indeed, I think under the peculiar position of things in California, that the revenue officers should be as indulgent as possible, and as liberal in the construction and application of the revenue laws as the nature of each case, as it may arise, will permit; for, in the absence of the proper courts, it will be difficult to enforce many of the provisions, and until we hear from the Department at Washington on the subject of the collection of customs in California, the best policy is not a too stringent application of those laws and regulations especially in matters not touching frauds upon the revenue.

Upon another perusal of your letter and accompanying papers, after writing the foregoing, it occurs to me that it would not be proper to say any thing about foreign vessels entering the ports of Oregon. That country has now a regularly organized territorial government, and we can no more say what vessels shall enter those ports upon the footing of coasters than we can say relative to the port of New York. The constituted authorities there may possibly choose to differ with us; at all events, leave them to settle that matter themselves. I would therefore suggest that in the form of the special license proposed to be issued for a limited period, the words "within the territorial limits of the United States on the Pacific coast" be stricken out, and the words "of Upper California" be inserted.

This will not prevent foreign vessels from going into the Oregon ports, if the authorities there choose to admit them, and if they exclude them, (which is by no means anticipated before the regular establishment of custom-house and revenue offices,) no license granted by any of the United States authorities here will be of any service to them.

I am, sir, very respectfully, your obedient servant,

R. B. MASON,
Colonel of 1st dragoons, commanding.

Commodore THOS. AP C. JONES,
Commanding U. S. naval forces in the Pacific ocean, San Francisco.

STATE DEPARTMENT OF THE TERRITORY OF CALIFORNIA,
Monterey, January 2, 1849.

SIR: I have to acknowledge the receipt of your letter of December 28, 1848, relating to compensation as collector, the proceeds of confiscated goods, and the sale of certain goods seized for false entry.

With respect to pay for service as collector, Colonel Mason thinks that the officers who have been thus employed should in justice be paid for such services, but he thinks it manifestly improper to introduce any such charge in the accounts, with the latter part of article 19, of the printed instructions from Washington, and the act of Congress approved August 22, 1842, (page 274 military laws,) before them. He thinks the proper course would be to make the claim direct to the Secretary of War.

With respect to the proceeds of confiscated goods, I am directed to refer you to Colonel Mason's letter of March 23, 1848.

Under the circumstances you mention, the Governor agrees with you that it will be best to sell the goods seized from Signor Bonjiovanni.

Very respectfully, your obedient servant,

H. W. HALLECK,
Lieutenant of engineers and secretary of State.

Captain J. L. FOLSOM,
U. S. army, San Francisco, California.

HEAD-QUARTERS, TENTH MILITARY DEPARTMENT,
Monterey, California, January 16, 1849.

SIR: I am in receipt of your letter of the 9th instant, and have this day instructed Captain Folsom to have the custom-house repaired. Daily expecting instructions from Washington on the subject of the collection of customs, &c., I do not think it prudent at this time to rent a building, or incur any expense in that branch of the public service that can possibly be avoided.

I desire that you will send to me monthly a statement of revenue collected, made out and filled up after the form enclosed, which is the one that has heretofore been used. Send monthly statements for the back months since you have been in office.

I am, respectfully, your obedient servant,

R. B. MASON,
Colonel 1st dragoons, commanding.

Mr. E. HARRISON,
Collector, San Francisco.

STATE DEPARTMENT OF THE TERRITORY OF CALIFORNIA,
Monterey, February 3, 1849.

SIR: I have to acknowledge the receipt of your letter of the 22d ultimo, asking permission to purchase chain and anchors for buoying out certain rocks in the bay of San Francisco. Colonel Mason approves of these purchases, and authorizes you to pay the expenses from the civil funds in your hands.

Your letter of the 23d ultimo, transmitting custom-house and military contribution accounts for the third quarter of 1848, has been received. In reference to the change which you advise in the management of the custom-house affairs, Colonel Mason directs me to say that he is daily expecting instructions from Washington on this subject, and that until he receives such instructions he cannot undertake to make any change.

Colonel Mason directs that you turn over from the civil funds $50,000 to the quartermaster's department, and $20,000 to the subsistence department, taking the proper receipt for the same.

Very respectfully, your obedient servant,

H. W. HALLECK,
Lieutenant of engineers and secretary of State.

Captain J. L. FOLSOM,
San Francisco, California.

STATE DEPARTMENT OF THE TERRITORY OF CALIFORNIA,
Monterey, California, February 24, 1849.

SIR: I am directed by Governor Mason to acknowledge the receipt of your letter of February 9th, and to reply as follows to the questions proposed by you in relation to the collection of customs:

In the instructions just received from Washington it is assumed that, by the treaty of peace with Mexico, California has become a part of the Union; that the Constitution of the United States is extended over this Territory; and is in full force throughout its limits.

The position of California, in her commercial relations, both with respect to foreign countries and to other parts of the Union, is, therefore, the same as that of any other portion of the territory of the United States. There, however, being as yet no collection districts established by Congress in California, no foreign dutiable goods can be introduced here. Vessels having on board dutiable goods which they wish to land in California, must enter them in some regular port of entry in the United States, and there pay the duties prescribed by law. Any such vessels presenting themselves in a port of California, without having so entered their dutiable goods, ought properly to be warned away and refused admission; and when the goods are entered at a regular custom-house, they can be brought here only in American bottoms. Such is the course required by a strict interpretation of the law; but, as this would subject such vessels to a great inconvenience and expense, the authorities having charge of this matter have resolved to present to them the following alternative: To pay here all duties and fees, and to execute all papers prescribed by the revenue laws of the United States; and, upon their doing so, their goods will be admitted. But, without the execution of such papers, and the payment of such duties and fees, they cannot be allowed to enter or to land their cargoes; and any attempt to import into this Territory foreign dutiable goods, without the payment of duties, will subject them to all penalties of the law—both vessels and goods will be seized and sent for adjudication in the United States court established in Oregon.

This view of the subject presents a ready reply to the questions proposed in your letter. No vessel can demand as a right to enter any foreign dutiable goods here, and you will not be liable to prosecution for refusing such entry; and by a voluntary payment of her duties here, in preference to going to a regularly established port of entry, such vessel binds herself to abide by the revenue laws of the United States, in the absence of all instructions to the contrary.

Your books and papers should be kept, so far as possible, in accordance with the regulation of the Treasury Department of the United States, transmitting your accounts to this office in the manner already directed. Very respectfully, your obedient servant,

H. W. HALLECK,
Brevet captain and secretary of State.

E. H. HARRISON, esq.,
Collector, San Francisco.

STATE DEPARTMENT OF THE TERRITORY OF CALIFORNIA,
Monterey, March 17, 1849.

SIR: The commanding officer of the division (General Smith) suggests, that where vessels have entered and paid their duties at San

Francisco, they be allowed to discharge their cargoes at such points on the bay as they may choose. As all matters concerning port regulations in California were by the President assigned to the commanding officer of the naval forces, (and it is not known that those instructions have been changed since the end of the war,) Governor Mason directs that you will consult Commodore Jones on this subject, and act in accordance with his views. It will be necessary that a custom-house officer accompany each vessel to its place of discharge, to see that the revenue laws are not infringed.

Very respectfully, your obedient servant,

H. W. HALLECK,
Brevet captain and secretary of State.

E. H. HARRISON, esq.,
Collector, San Francisco, California.

HEAD-QUARTERS, PACIFIC DIVISION,
San Francisco, California, March 15, 1849.

SIR: On the 28th of February last I arrived at San Francisco in the steamer California from Panama; it was not until the 10th instant, that I was able to procure quarters on shore. One month was spent in Panama waiting for the steamer.

I saw Colonel Mason at Monterey as we passed, and learned from him the arrival of Brevet Major L. P. Graham's command, of about 270 men, at the Pueblo de Los Angeles.

The force in this department consists of his command, of Captain Burton's company, 3d artillery, at Monterey, and of Captain Smith's company, 1st dragoons, at the presidio of this place. The larger portion of this latter corps have deserted to go to the mines, and it is presumed that nearly all the rest will follow as soon as the season permits them to live on the hills where the gold is found.

The rate of pay paid to the enlisted men is so much inferior to that earned by common laborers here, that the temptations cannot be resisted; and to employ the men still remaining in searching for the others, would be to *to* lose them also.

As some inducement to stay, in order to secure protection to the public property, I have authorized the quartermaster to give the same wages to soldiers who have leave of absence from their commanding officers as he gives to laborers. But I yesterday saw the latter refuse eight dollars a day. This is not more owing to the scarcity of labor than to the extreme plenty of gold and the facility with which it is procured.

I think it probable that the troops expected to arrive will be affected in the same manner as those now here; for, though the influx of population will be great, the quantity of gold taken will be greater in proportion, so that little benefit can be expected from them.

I propose to place the greater part of the 2d infantry in the southern part of the Territory, as furthest removed from the mines, and near the frontiers; its head-quarters at San Luis Rey, where the buildings of the

mission are most commodious, and the country most abundant in supplies of forage and food; to garrison San Diego, Warner's pass, the outlet to Lower California, and Senora; and as soon as possible to establish a post at the mouth of the Gila, not only to facilitate travelling to and from New Mexico, but to prepare for the boundary commission. San Luis Rey is well situated to communicate with those places and to supply them. But the post at the Gila should be supplied by the Gulf of California as soon as the proper kind of vessels can be procured, viz., those of light draught. A company of artillery will be stationed at Monterey, where there is a temporary work, and one near the entrance of this harbor, to control the vessels trading at those places. I have directed some of the heavy artillery now here to be placed in the old battery commanding the entrance of this bay. No work will be done laying the platforms, as the site of this fortification will most probably have to be cut down in regularly fortifying the harbor.

I shall put two companies of infantry and one of cavalry at some point near the bay, above the district infected by fogs in the summer; the point to be established in a visit I shall make in a few days. From their position, they can be moved either by land or water towards the mines, and among the Indians north of San Francisco, some of whom it is represented are dissatisfied with the treatment received from the whites.

I would recommend that no great expense be incurred for storehouses, or other permanent constructions of the kind, until the whole neighborhood be examined. The harbor at Yerba Buena is a very inconvenient one; the sea too rough; three days out of seven to load or unload vessels; and the town of San Francisco is situated at the extremity of a long point cut off from the interior by an arm of the bay more than thirty (30) miles long, having no good water and few supplies of food.

The road along the bay, the only one reaching this place, is intersected by streams that render it now nearly impassable.

I am without any returns from department head-quarters since my arrival.

I have no observations to make in relation to the gold region of this country, as all my knowledge on this subject is derived from others who have communicated directly to the War Department. But from what I have seen here, I have no doubt that every thing thus communicated has been, if any thing, short of the truth, as new discoveries are daily adding to the extent of the mining district, and to its productiveness.

Referring to the President's message, and to the letters of the Secretary of State to Mr. Voorhies of the 7th of October last, and that of the Secretary of War to Colonel Mason, dated October 9, 1848, and the circular of the Secretary of the Treasury, dated October 7, 1848, to the collectors of customs, I have assumed, as the opinion and decision of the Government, that the government existing in Upper California on the 30th May last was a government de facto, which must,

from necessity, be presumed to have existed, and to continue with the consent of the people; for, as the "full and exclusive power of legislating for the Territory is in Congress," the only other alternative would be anarchy until Congress shall act; that the laws of Mexico formerly in force in California, and not repealed on that day, nor contrary to the laws, Constitution, and treaties of the United States, remain in vigor; and that, by the treaty with Mexico, California became part of the United States, and subject to the laws of the United States. I therefore recognise this government de facto as the government of California, and its acts as lawful, and recognise the force of Mexican laws remaining in vigor, and cannot recognise any other government or laws until established by Congress, or its authority. Consequently the laws of the United States, in relation to trespassers on public lands, in cutting timber, mining, &c., are in force, and should be executed. But as Congress have made distinctions in favor of citizens who brave the difficulties of emigration and the wilderness, and settle on public lands, bringing their value into notice, and settling an uninhabited country, these penal laws should not be enforced against them until the pleasure of the Government be known. But as to bands of foreigners, who, without any intention of settling in the country, have flocked here by thousands, solely to gather gold from the public lands and carry it away, where none of it will ever come to the United States, these reasons for consideration do not apply, and I shall, as soon as I can, endeavor to enforce these laws, depending on the citizens of the United States for aid in doing it. I enclose a copy of a letter I addressed to our consul in Panama, with a view of advising foreigners of the offences they were about committing.

It is evident, our revenue laws being in force here, dutiable goods cannot be brought in unless they pay duties, nor landed but at a port of entry; and there being no port of entry in the Territory, and no collectors appointed, all such goods must be sent away. But as many vessels come from Europe, a long and expensive voyage, and there is no port of entry or collector yet on the Pacific, except those in Oregon, and those not yet ready, and as the people of this Territory are suffering for the want of supplies, I have instructed Colonel Mason, that, though no duties can be exacted from any vessel, or on any goods, yet, if the parties interested prefer it, rather than go away, to their entire ruin, and the inconvenience of the people here, they may deposite the amount of duties and fees payable in ports of entry, subject to such disposition as Congress may make of them, and land their goods.

I have also concurred with Commodore Jones in permitting foreign built launches, owned by American citizens, fit for the navigation of the bay, to convey passengers and goods to the interior, as many persons are in great suffering here, having no houses to cover them, and there are no small vessels of the proper class built in the United States to carry them; and in permitting foreign built vessels to be taken to the interior to be dismantled and used as warehouses, the scarcity and price of lumber rendering it impossible to build; lumber sells at $600 per thousand feet.

All those modifications of laws, however necessary, can only be temporary. It would, however, be just, before enforcing rigidly our revenue and navigation laws, that other nations should have due notice of this peculiar state of affairs here, which cuts off their commerce with the United States.

The steamers running between this place and Panama are not provided with coal. On our arrival here in the California, we had not two hours fuel; and there are no depôts this side of Panama. The crew of that ship, engineers, second and third mates, and servants, have all deserted for the mines, and she now lies here, with the captain, first mate, and purser on board. No dependence, therefore, can be placed on the punctuality of this line, and if the route across the isthmus has not been improved, as soon as the rainy season comes on, in May, it will no longer be passable for officers to reach this place by Panama and the steamers.

For the troops and public stores many public buildings will be necessary. These should all be prepared in the United States and sent round the cape, with persons to put them up, engaged by the contractors who furnish them.

Mechanics cannot be kept here who are brought out by the quartermaster's department. The wages of a good carpenter here are more than the pay of the major general commanding the army.

I would earnestly recommend that the commissary's department be instructed to send here, and sell at the prices of the eastern States, all the articles of food necessary and usual for the officers and their families. They will all undoubtedly be ruined here, but they should not also be starved.

After I shall have visited the country, I shall report in detail, from my own observation, in relation to all points of interest. I enclose, besides the letter to the consul at Panama, copies of division orders from 1 to 5, inclusive, special orders Nos. 1 and 2, and copies of all letters written since my arrival here.

I have the honor to be, your obedient servant,

PERSIFOR F. SMITH,
Brevet major general commanding.

To Brig. Gen. R. JONES,
Adjutant general, U. S. army, Washington city, D. C.

HEAD-QUARTERS, THIRD DIVISION,
San Francisco, California, March 6, 1849.

SIR: We arrived here the morning after leaving Monterey, and I have found every thing here entirely on the extreme of speculation. Labor cannot be procured but at the most exorbitant prices, and materials hardly at all. Nevertheless some work must be done towards mounting some pieces at the entrance of the harbor, and preparing for the troops coming by sea. I propose to mount six pieces at the point, viz., four 32-pounders and two 8-inch howitzers, to repair the buildings at the presidio, and to find quarters, if possible, for a troop of horse at Sonoma.

When the necessary orders are given for these, I will give at once a copy to Captain Folsom, that he may begin at once his preparations; for the work must be done by hired laborers. It will be well for Captain Smith to give short leaves of absence to his men, and for the quartermaster to hire them. This would be some encouragement for them to remain. They have already begun to desert.

I have said to Mr. Harrison, the collector, that as this is not a port of entry established by law, there is no obligation to prevent foreign vessels from discharging at other points on the bay where the inhabitants think commerce will eventually establish itself; that, as much may depend upon the start given to a plan at the beginning by restrictions put upon its rivals, it is best to be perfectly impartial, to afford an equal chance to all, and thus to allow a free choice to those engaged in trade to select a spot for its depôt, and to furnish to Congress evidence upon which it can found its legislation in fixing the ports of entry. To avoid multiplicity of accounts and modes of collection, there can be of course but one custom-house and one collector, which are established and must remain at San Francisco; so that all vessels must enter and pay their duties here, but an inspector of the revenue can accompany each vessel to its place of discharge, and see that the laws of the United States are not infringed. Those vessels that go up the north branch of the bay can anchor near Sansolito, until they are entered and the duties paid, and then go up without coming round this way. As there is no law making this a port of entry, I presume Mr. Harrison can regulate this matter himself.

I imagine it will be found necessary to bring some more troops in this neighborhood than I at first expected. Two companies of the second infantry will be stationed somewhere near above the influence of the fogs; the company of artillery at Presidio; the cavalry at Sonoma.

They will require some additional inducements beyond their pay to prevent them from deserting. Such may be given by authorizing the quartermaster to employ them on the public works.

If we can thus keep them through the mining season, they will remain next winter; and in the spring circumstances may be altered.

The head-quarters of the second infantry will probably be best at San Louis Ray, as you suggested, with posts at San Diego, Warner's pass, and the mouth of the Gila. You will want a company probably at Monterey. Will you be good enough to let me hear from you on these points, and I will issue an order and send it to San Diego to meet General Riley, in case he arrives there first.

With respect, your obedient servant,

PERSIFOR F. SMITH,
Brevet major general, commanding.

Colonel R. B. MASON,
First regiment dragoons, commanding
tenth military department, Monterey, California.

HEAD-QUARTERS, THIRD DIVISION,
San Francisco, April 5, 1849.

GENERAL: Since my last communication no troops have arrived to change the strength of the force here, but the steam transport Edith arrived on the 21st March, and reports that the transports Iowa and Massachusetts, the former having General Riley, with a part of the 2d infantry, and the latter having the command of artillery for Oregon on board, left Valparaiso about the 8th February. The former is expected here every day, and the Edith is held in readiness to convey the troops south to the position they are to occupy.

There will be great difficulty in establishing and maintaining a post at the mouth of the Gila, until more knowledge is acquired of the navigation of the head of the Gulf of California and the lower part of the Colorado. Transportation by land from San Diego is impossible for large quantities of stores.

In the gulf, the winds blow in the winter almost invariably from the northward; and in the summer, when they come occasionally from southward, it is in violent gales, with severe squalls and thunder, rendering it very dangerous to be in the gulf then. In other words, it is always difficult to run up the gulf, but almost easy to run south. These circumstances render the employment of steam vessels very advantageous. If the navigation of the gulf permits the Edith to be used, she will answer, having both sails and steam. If she draws too much water, others of lighter draught could be procured. I mention this now, as the boundary commission will commence their labors on this end of the line, and will be on the Gila next season. I should have observed that the Colorado is supposed to be navigable only for boats drawing three or four feet.

I see no reason for posting troops on any other point out of reach of the ports on the Pacific. The Indians in the interior do not make it necessary, and it would be useless to place them near the mines to maintain order there. Nothing but the establishment of a regular civil government, to be carried on by those most interested in the existence of good order, will answer that end.

Such detachments as go to the southern part of the Territory will accordingly be placed as heretofore mentioned, in healthy and convenient positions, and those in this bay at such points as will combine good climate, convenience of supply, and facility of movement. I propose, when such a point is found, to have removed all the public stores there, both from this place and Monterey, leaving the heavy ordinance and stores.

The town of San Francisco is no way fitted for military or commercial purposes; there is no harbor, a bad landing place, bad water, no supplies of provisions, an inclement climate, and it is cut off from the rest of the country, except by a long circuit around the southern extremity of the bay. In times of war, enemies' troops could be landed for many miles south of the entrance of the bay on the sea-beach, and

thus cut it off by a short line across the peninsula on which it stands. There are points on the bay more inland, having good harbors and landings, good water, and open to the whole country in rear, and accessible without difficulty to ships of the largest class. One of these should be the point at which the future depôts should be established; and I propose to go to-morrow in the Edith, in company with Commodore Jones and other officers of the army and navy. to examine the straits of Karquinez, said to combine most advantages. I hope to return and report the result of our examination before the next mail boat leaves, (on Monday, 9th,) but at any rate by the succeeding boat, a few days afterwards.

I hope that in fixing the port of entry, capital, or other public places, the law will leave to the President the selection; otherwise, private interests, already involved in speculation here, will, by misrepresentation, lead to a very bad choice.

If Congress has not provided by law for the government of this Territory, or its admission as a State, I would be very glad that the Government would officially promulgate its views as to the civil authority now exercised here. Some important questions of law, involving both life and property, are now depending, and judges and jurors without experience in these difficult questions, are called upon to act under great responsibility.

It appears to be the opinion of merchants in many of the ports of the Pacific, (and they allege in support of it the advice of some of our consuls,) that in virtue of the circular of the Secretary of the Treasury of October 30, as the Treasury Department could not collect duties on imports in California, their goods, though dutiable, could be imported without paying duty. I have held that this was not the construction proper to be given to the circular, but only that the law had not provided the means of collecting duties here, that law being still in force which prohibits certain goods being introduced into the United States, unless they pay duties as prescribed; that consequently no dutiable goods can be landed in California until they shall have paid their duties elsewhere; the effect of which would be, that they could not be admitted at all from foreign ports.

Under the circumstances, which showed a very hard case, I thought it proper that the parties should be allowed to deposit the amount of duties and land the goods; but, lest this should be construed as giving them a right for the future, and as the President may think proper to put an end even to this indulgence, I have addressed a circular to all our consuls on those seas warning them of this possibility, a copy of which is enclosed.

I was directed, when coming here, by the Secretary of War, to do all I could to facilitate the arrival of the civil officers of government in Oregon, as the public service required their presence there. The steamer in which we came here could go no further north, and there was no possible way of those gentlemen getting there except on a small vessel about sailing, on which there were no accommodations.

Commodore Jones kindly sent carpenters from the fleet to put up some berths, and, on General Adair's (the collector) representation that no bedding could be procured, I directed the quartermaster to issue him the necessary number of blankets for the voyage, and take his receipt for them. I respectfully ask that this may be approved, and the amount charged to General Adair. The quartermaster could not tell him the price of the blankets when he took them.

As the rainy season has ended, people are again repairing to the mines. New discoveries further south are said to have been made, and it is now pretty certain that the whole slope of the Sierra Nevada, comprised within the headwaters of the San Joaquin to the south and those of the Sacramento to the north, contains gold. These two rivers, forming, as it were, a bracket, join to enter the bay of San Francisco, and their tributaries from the east; in their beds expose the deposites of gold as they descend from the mountains. It is on the banks and branches of these streams that adventurers are now at work; but some excavations elsewhere, to a depth equal that worn by the creeks, have disclosed quantities similar to those most generally found. There appears to be a line parallel to the summit of the main ridge, and some distance down the slope, at which the product of gold is at its maximum; but whether this be from the quantity deposited, or from the different position as relates to the surface, or from the difficulty of working it, I have not the means of knowing.

The gold is found in small particles; the largest I have seen, but such are rare, weighs 71 ounces troy. The appearance invariably is as though it had been spurted up, when melted, through crevices and fissures in drops, which have often the form of the leaves and gravel on which they have fallen. I speak of this as an appearance, not as a theory or hypothesis. The extent ascertained within which gold is thus found is at least 400 miles long, by 40 wide; in almost every part of which, where the surface is depressed by the beds of rivers, gold has been obtained without digging more than ten feet below the surface, and very seldom that much.

It is impossible to furnish any grounds for estimating the number of people engaged in mining, or the amount they have produced. Persons engaged trading with the miners say about 10,000, but I cannot say with what reason. They can better judge of the amount produced, which the lowest estimate places at $4,000,000. More than 3,000 persons have been added to the miners up to this time, chiefly from Mexico and South America.

When the mines were first discovered, all the ports of South America on the Pacific, and of the Sandwich islands, sent the merchandise collected and stored there to be sold here. They realized enormous profits, before any competition from our eastern States could meet them; and these goods were generally owned by European houses, who thus became possessed of the first fruits of the mines, which were shipped to Europe on their account; and it is thus that so little gold has reached the United States.

When the merchandise now on its way from our Atlantic States arrives, and is sold, the current will set that way; but the profits will be much diminished by competition, and still more by the enormous expenses here for labor, storage, &c. These are almost incredible; the ordinary wages for the poorest laborer is $6 per day; many receive $10.

The extent and richness of the gold region have not been exaggerated; and the exorbitant prices paid for labor, rent, and subsistence have hardly been fully set forth. But all the estimates of the amount actually produced are but mere suppositions, which may surpass or may fall short of the truth.

I have already directed that the men to whom their commanding officers may give short leaves of absence, may be employed by the quartermasters at the usual rates here. This will be an encouragement to the men and an advantage to the public service, as labor is hard to get. But I doubt the propriety of yielding to the current of gold seeking, and allowing large bodies of the men to go to the mines. It may be permitted to reward good conduct, as any other indulgence is; but to make it general, would be either to acknowledge the right of the men to modify their obligations as they please, or to confess our inability to enforce their fulfilment. For the sake of principle and preciseness, it would be better to adhere to what is right now, though the effect here in this particular instance would be the desertion of the men.

I am, with respect, your obedient servant,

PERSIFOR F. SMITH,

Brevet major general, commanding 3d division.

Brigadier General R. JONES,

Adjutant General.

Circular.

HEAD-QUARTERS, PACIFIC DIVISION,

San Francisco, California, April 1, 1849.

The treaty concluded with Mexico on the 30th of May last, brought Upper California within the United States, and of course within the operation of all its laws. But the means of enforcing some of these laws have not been provided by Congress. Thus, as the Secretary of the Treasury, in his circular of the 30th of October last, observes "although Congress have recognised California as part of the Union, and legislated for it as such, yet it is not brought by law within the limits of any collection district, nor has Congress authorized the appointment of any officers to collect the revenue." The laws of the United States are in force here, and consequently the revenue and navigation laws are; though at this moment some part of the machinery necessary to their complete action is wanting.

Now, the law declares that certain goods shall only enter upon having paid the duties prescribed by the tariff; and when the Secretary says that the Department is unable to collect duties on such, the proper

inference is not, as many seem to think, that the goods can enter without paying duties, but that, being unable to pay the duties here, as required by law, they cannot be admitted at all.

As *any* cargoes had been shipped under the wrong impression that they could enter, and there was no American port of entry on the Pacific to which they could resort to comply with the law, a case of extreme hardship was presented, which appeared to authorize such a modification as would allow the cargoes to be entered, on depositing the duties, to await the action of Congress on this subject. And so, from the want of American vessels on the coast, and from the unwillingness of the few in this ocean to frequent these ports, where the men desert to the gold mines, an absolute necessity of some means of transportation existed, which could only be supplied by using foreign vessels that came from the neighboring coasts.

But both of these modifications of law can be but temporary. There can be no hardship in enforcing the law on those who are fully aware of its provisions and their effect; and time will doubtless do away with the scarcity of American vessels of small class here. There will be then no reasons for indulgence; and the suspension of the strict enforcement of the law will cease. Even before that time the Government at Washington, thinking itself empowered to allow of any such suspension, may revoke the indulgence granted, and require a strict adherence to the law, whatever may be the inconvenience to individuals.

I think it would be proper, then, to notify all persons designing to come here from your port, or its neighborhood, that they can have no right to count upon any other than the strictest construction of the law, as in all other ports of the United States, both as regards cargoes and vessels; and, particularly, that dutiable goods cannot be entered here at all, unless Congress shall have made provision for appointing the necessary officers.

It would be well, also, to inform all adventurers coming here to search for gold, that trespassing on the public lands is punishable by fine and imprisonment; that, although the position of affairs here, incident to the change of government, has hitherto prevented action under these laws, yet they will be enforced as soon as the means are organized.

I should like to be informed of the date of your receipt of this communication, to be enabled to judge of the degree of indulgence proper to award to those claiming it.

PERSIFOR F. SMITH,
Brevet major general, commanding division.

To United States Consuls, Valparaiso, Callao, Panama, Canton, Singapore, Manilla, Sidney, Tahiti, Sandwich islands, and all other ports of the Pacific ocean.

HEAD-QUARTERS, PACIFIC DIVISION,
San Francisco, March 21, 1849.

SIR: I have to acknowledge the receipt of your communication of the 22d instant.

I have seen Commodore Jones on the subject of the entry of the cargo of the brig "Richard and William." We are of the opinion that it will be proper to allow the cargo to be landed and entered, under the same forms and conditions as that of the brig "Alert."

I am, sir, very respectfully, your obedient servant,

PERSIFOR F. SMITH,
Brevet major general, commanding.

To E. H. HAMILTON,
Collector of customs, port of San Francisco.

Official: W. T. SHERMAN,
1*st lieutenant* 3*d artillery, A. A. adjutant general.*

HEAD-QUARTERS, PACIFIC DIVISION,
San Francisco, June 20, 1849.

SIR: I have the honor to acknowledge the receipt of your communication, by the hands of the hon. T. Butler King.

With the view of affording him every possible opportunity of acquiring information relative to California, its present situation, its capabilities, and prospects, I have prepared the means of making a journey over the most part of the territory that is inhabited, going from the upper part of the Sacramento, along the foot of the Sierra Nevada, to the upper waters of the San Joaquin, and returning by a route nearer the coast, after visiting the country north of this bay, near the sea. Several officers of the staff will accompany us; and an experienced geolgist, Dr. Tyson, of Maryland, has promised to go along. Commodore Jones will also be of the party, if he finds he can be spared from the court. We shall leave as soon as the steamer is despatched.

It is hoped that the character of the country, its capability of cultivation, its products in minerals and timber, will be so far ascertained as to furnish all the data necessary for legislation.

If the country, as I think it will, prove capable of sustaining a large population, and of furnishing them with most of the materials necessary for all branches of industry, its situation on the Pacific, its excellent harbor, and uninterrupted navigation, will give birth to a commerce of the highest class, independent of the advantage given by the possession of gold mines; so that, whether these continue to be productive or not, the future importance of California will be the same. The crowd of gold seekers increases every day; yet the ratio of their gains continues about the same as at first, showing as yet no diminution of the quantity of gold in the "placers."

The history of discoveries similar to this shows, that after a period of from ten to twenty years, such deposites are so far exhausted as to fur-

nish only the ordinary profit to labor; but in this case the extent of the deposites is so unprecedented that its limit is yet to be known. Some years may first elapse before the usual period of gradual exhaustion begins. As the annual product may be estimated safely at ten millions as the minimum, it is clear that even twenty years of production will furnish a capital sufficient to develop all other resources of the country, and give vigor to a commerce unrivalled; and, consequently, no effort should be left untried to furnish legislation with all the lights necessary to clear the way for so interesting a future. Nothing on my part will be spared to enable the Government, at the earliest moment, to provide for all the political or commercial wants of a people who are to take so important a position in the world as those in California.

Under the hope that some act of the last Congress has provided, or at least defined, the government of California, it was thought prudent to await intelligence of the close of the session; and then, if nothing had been done at Washington, to put in action the authority of the laws already existing here, and at the same time to propose to the people of California to form a State constitution, and present it at the next session of Congress, when their admission into the Union as a State would at once solve so many difficulties, and, while it removed a cause of disagreement at home, would give them an opportunity of legislating for themselves.

The steamer Edith had been sent to Mazatlan for the necessary intelligence, and on her arrival with information that no other than a revenue law had been passed, General Riley issued a proclamation for the election of the necessary executive and judicial officers under the existing laws, recommending at the same time the election of delegates to a convention to form a State constitution.

Mr. King arrived at the time these proclamations were about being issued, and it was matter of great congratulation that the Government, by anticipation, had approved of the latter measure.

Every means will be used to give the people of California an opportunity of expressing their wishes on this point, and of bringing the matter to a happy conclusion.

To insure this, I may find it necessary to postpone my visit to Oregon, unless some pressing and unforseen necessity arises.

No opposition has been manifested to the project of forming a State ; that has met with universal approbation; but some small factions here expressed dissatisfaction that the measure did not proceed from them. Its obvious utility will drown their censure.

During the military occupation of California sums were collected as military contributions. After the news of peace a revenue, conformably to the tariff, was collected. On my arrival, the acting collectors were instructed not to exact duties, but to receive them as deposites at the door of the treasury, awaiting the action of Congress. The revenue laws (without our knowledge) were extended over California at the same time, (March 11,) and all the sums thus collected are now deposited in the hands of the quartermaster. They amount to near

1026.

half a million. The military contribution, under a late law, can be paid into the treasury; but the revenue collected, after the peace and up to March 10, is not money collected according to law. The money collected since is due by law, but not collected according to law while the collector is yet absent. As the money will finally go into the treasury in some way or other, it is desirable that some disposition should at once be made of it; and I would suggest that all the disbursing officers authorized to draw should cash their drafts here, out of this fund, and send the drafts home, to remain subject to final action. This would transmit the fund to Washington, and furnish the disbursing officers here without expense; drafts at par on Mexican Pacific ports cause two or three per cent. loss in export duty, freight, &c.

The emoluments attached to military office were no doubt intended to provide the officers with all the necessaries of life, while the pay proper was intended as compensation for service. In the course of experience, it was found that these could not always be drawn in kind. An officer in a boarding house, for example, could do nothing with his rations, fuel, &c., &c., and the whole were calculated together with his quarters, in the sum he paid for board and lodging. From this arose the practice of commuting these emoluments, and the sum fixed on had reference to what the officer would have to pay if he furnished himself, and was, perhaps, an equitable arrangement, and would meet the wants of any reasonable and economical man, being founded on the actual price at the time and place. But these prices are totally inadequate here; they will not furnish the articles they are intended to represent.

The salary of the Secretary of War would not half pay the rent of the quarters to which a general officer is entitled by the regulations, and not much more than pay the hire of his servants.

It seems to me fair, and I would respectfully suggest, that the commutation here be brought back to be what was originally intended, a fair alternation for the supply furnished, and that the disbursing departments should from time to time fix the rate according to an average of prices, so that when circumstances oblige an officer to take the commutation, it may bear some relation to the article it is intended to represent.

In the hope of preventing desertion, I have authorized the quartermasters to employ soldiers to labor at a rate approaching to that current at the place, the soldiers having short furloughs for the purpose; and as other laborers were not to be had at lower prices than the additional emolument, this is economy for the Government.

But it would be better that it should be the subject of some general regulation. In the Atlantic States the pay, clothing, subsistence, quarters, and medical attendance a soldier receives are equal, if not superior, to the average daily wages of a laborer. Here they are not one-tenth; the soldier receiving a little over fifty cents a day, and the laborer from six to ten dollars.

The high rate of labor here would seem (for it is likely to last some years) to render all heavy public works here unadvisable; yet the ne-

cessity of securing the harbors and public establishments, increasing every day with their increase of value, renders some system immediately necessary.

If the system of fortification for each place be at once adopted, and only the water batteries at the entrance executed, the others might be postponed, and in the mean time security attained.

By the construction of many large steamships in the Atlantic States, where prices are still the same, as coal is, no doubt, plenty in Oregon, these vessels could run in the Pacific as packets to China and South America, and always anticipate the arrival of an enemy on our coast; so houses, barracks, storehouses, and every thing that requires labor in its construction, may be prepared in the Atlantic States and transported here, thus diffusing the advantages of the gold mines here over the whole country.

With sincere respect, your obedient servant,

PERSIFOR F. SMITH,

Brevet major general, commanding division.

Hon. W. H. CRAWFORD, *Secretary of War.*

EXECUTIVE DEPARTMENT OF CALIFORNIA,
Monterey, June 30, 1849.

GENERAL: I have the honor to transmit herewith copies of all civil correspondence and papers since the 13th of April last, at which time I relieved Colonel Mason from his duties as Governor of California.

It was (with the advice of Colonel Mason) my intention, on assuming the direction of civil affairs in this country, to complete the organization of the existing government, at the same time to call a convention for forming a State constitution, or plan of territorial government, to be submitted to Congress for its approval. But, on further consultation, it was deemed best to postpone all action on this subject until I could ascertain what had been done in Congress. On the first instant I received reliable information by the steamer "Edith," that that body had adjourned without organizing any territorial government for this country; and accordingly, on the 3d instant, I issued my proclamation to the people of California, defining what was understood to be the legal position of affairs here, and pointing out the course it was deemed advisable to pursue in order to procure a new political organization, better adapted to the character and present condition of the country. The course indicated in my proclamation will be adopted by the people, almost unanimously, and there is now little or no doubt that the convention will meet on the first of September next, and form a State constitution, to be submitted to Congress in the early part of the coming session.

A few prefer a Territorial organization, but I think a majority will be in favor of a State government, so as to avoid all further difficulties respecting the question of slavery. This question will probably be submitted, together with the Constitution, to a direct vote of the peo-

ple, in order that the wishes of the people of California may be clearly and fully expressed. Of course, the constitution or plan of territorial government formed by this convention can have no legal force till approved by Congress.

On the receipt of the treaty of peace with Mexico, doubt was entertained by a portion of the people here, respecting what constituted the legal government and laws of the country. A few contended that all government and all laws in California were at an end, and that, therefore, the people, in their sovereign capacity, might make such government and laws as they should deem proper. Accordingly in two of the northern districts local legislative assemblies were organized, and laws enacted for the government of the people of these districts. The members of the Sonoma assembly, however, soon became convinced of their error, and that body was dissolved. But in San Francisco the assembly continued its sessions, making laws, creating and filling offices, imposing and collecting taxes, without the authority and in violation of law, and finally went so far as to abolish the office of alcalde, whose records and papers were seized and forcibly removed from his custody. On receiving official information of these facts, I issued my proclamation of the 4th instant. Since then I have made a personal visit to San Francisco, and find that the more respectable members of the so called district assembly are convinced of the impropriety of the course pursued by that body, and in a very short time I think all the difficulties will be amicably arranged. These difficulties arose, in part, from a misapprehension as to what constituted the legal government of the country, and in part from the unpopularity of the first alcalde of that district, against whom serious charges had been made. Unfortunately there was at the time no legal tribunal for investigating these charges; and there being no other magistrate in that district I could not, with propriety, remove him from office. A new election, however, will soon be held to supply his place; and on the organization of the "superior court," the charges against him can be properly investigated.

The publication of a portion of the instructions received from Washington respecting the government of this country, and the disposition manifested by the authorities here to enforce the existing laws, have done much to remove the erroneous opinions which were for a time entertained by a portion of the people of California. The civil government of this country has been, and will continue to be, administered on the principle laid down by the Supreme Court of the United States, viz., on the transfer of the ceded territory, it has never been held that the relations of the inhabitants with each other undergo any change. Their relations with their former sovereign are dissolved, and new relations are created between them and the government which has acquired their territory. The mere act which transfers their country transfers the allegiance of those who remain in it; and the law, which may be denominated political, is necessarily changed, although that which regulates the intercourse and general conduct of individuals remains in force until altered by the newly created power of the State.

The treaty is the law of the land, and admits the inhabitants of (California) to the enjoyment of the privileges, rights, and immunities of citizens of the United States. It is unnecessary to inquire whether this is not their condition independent of stipulation. They do not, however, participate in political power; they do not share in the government till (California) shall become a State. In the mean time (California) continues to be a territory of the United States, governed by virtue of that clause of the Constitution which empowers Congress to make all needful rules and regulations respecting the territory and other property belonging to the United States.

When we take into consideration the great mass of floating population of the United States and of other countries—people of all nations, kindreds, and tongues—which has been suddenly thrown into this country, it must be acknowledged that everything has, thus far, remained remarkably quiet, and that the amount of crime has been much less than might, under the circumstances, have reasonably been expected. It is to be feared, however, that during the coming winter, when large numbers of the miners collect in the towns, public order may be occasionally disturbed. But it is believed that in the mean time a more complete organization of the existing government will be effected, so as to enable the authorities to enforce the laws with greater regularity and efficiency.

Rumors have reached me that there is no very amicable feeling existing between the Americans and foreigners in the gold regions, and that the former are disposed to forcibly expel the latter from the placer districts, I shall soon visit the valleys of the Sacramento and San Joaquin, and hope to be able to report upon the true state of affairs there by the August steamer. As Congress has declined passing any laws restricting the working of the placers, I shall not deem myself authorized to interfere in this matter, any further than may be necessary to preserve the public tranquillity. Indeed, there is much reason to believe that Congress has pursued the best policy, under the circumstances, in leaving the placers open to all, for it would be exceedingly difficult to enforce any regulations not absolutely required by the necessity of the case, and it is more than probable that any attempt at this time to rent out the mineral lands, or to tax their products, would involve a great expense, and it is quite possible such an attempt would lead to very serious difficulties. Of the large numbers who have been attracted to this country by the flattering prospects of sudden wealth, and with the intention of returning to their former homes to enjoy their gains, many foreigners as well as Americans are becoming established in business, and will make California their permanent place of residence. It is, therefore, well worthy of serious consideration whether the present system may not prove equally beneficial with that of a more exclusive policy. It certainly conduces much towards developing the resources of the country, extending its commerce, and rapidly augmenting its wealth and population. As soon as I have made a personal examination of the gold regions, I shall be prepared to express my views on this

subject; but I cannot omit the present occasion to urge upon the Government the importance of establishing a mint in California with the least possible delay.

Information, not official, has been received, that the revenue laws of the United States have been extended over this country, and that a collector and deputies may soon be expected to take charge of the collection of revenue in this district. On their arrival all custom-houses and custom-house property will be turned over to them, and the temporary collectors employed by my predecessor and by myself will be discharged. The moneys collected during and since the war, under the direction of the Governor of California, and not required for defraying the expenses of the civil government, will be kept as a separate and distinct fund, subject to the disposition of Congress. The grounds upon which this revenue has been collected since the declaration of peace, are fully stated in a letter to the collector of San Francisco, dated the 24th of February last. It may be proper to add that the course pursued by my predecessor was rendered absolutely necessary by the peculiar circumstances of the case. The wants of the country rendered it imperative upon him to permit the landing of foreign goods in the Territory; and had this been done without the collection of duties, large amounts of dutiable goods would have been placed in depôt on this coast, to the manifest injury of the revenue and prejudice to our merchants. The importers have sold their goods at such prices as to cover the duties paid, and still leave them enormous profits; and to now return those duties to the importers would be a virtual gift, without, in any way, benefitting the people of California. But to expend this money in objects of public utility in the country would confer a lasting benefit upon all. I would, therefore, recommend that such portions of these moneys as may be left, after defraying the expenses of the existing civil government, be given to California as a "school fund," to be exclusively devoted to purposes of education. No difficulty has been experienced in enforcing the tariff of 1846, and the revenue has been collected at a moderate expense, considering the peculiar circumstances of the times.

All officers of the civil government of California will be paid out of the "civil fund," arising from the customs, the salaries fixed by law, and I would recommend that those officers of the army and navy who have been employed as collectors and receivers of customs in California, both during and since the war, be allowed a fair per centage on the money which they have collected and disbursed. Two and a half per cent. on the amount collected, with the restriction contained in section two of the act of March 3, 1849, is deemed a fair allowance for collecting these customs, and two and a half per cent. on the amount actually expended is deemed ample compensation for keeping and accounting for the same. It would be more just and proper to make the allowance for the actual expenditures than for receiving and keeping these moneys; because, if the reversed rule were established, officers who have received large sums, and within a few days transferred them

to others, with no other trouble than merely passing receipts, would be entitled to a higher pay than those who have had all the trouble of expending this money in small sums, and in keeping and rendering accounts of these expenditures.

As soon as these "civil funds" can be collected from the officers now holding them, it is proposed to place them in the hands of some officer, or other responsible person, who will act as treasurer for the civil government, with a fixed compensation for his services. On the arrival of the regular collector and deputies, appointed according to law, a full statement will be made of all the moneys which have been collected in California, and the papers and accounts connected with the expenditure of this civil fund will be sent to Washington, as heretofore, in order that all officers who shall receive or expend the same may be held to a strict accountability.

I am, sir, very respectfully, your obedient servant,

B. RILEY,

Brevet Brig Gen., U. S. A., and Gov'r of California.

Major General R. JONES,

Adjutant General of the Army, Washington, D. C.

Circular.

STATE DEPARTMENT OF THE TERRITORY OF CALIFORNIA,

Monterey, May 3, 1849.

The instructions from this office to the collector of San Francisco, dated February 24, 1849, (copies of which have been sent to the other collectors,) contain the views of the Governor respecting the collection of customs in California. Those views will continue to be carried out in every particular. The custom-house books and papers will be kept as near as possible in accordance with the regulations of the Treasury Department, and the accounts sent to this office for transmission to Washington. Monthly summary statements of revenue collected will be made out and forwarded to this office at the end of every month; and the quarterly accounts and papers will, at the end of every quarter, be submitted to the quartermaster of the nearest post for his examination; and if there should be no such officer in the vicinity, or he should fail to examine the accounts within a reasonable time, they will be sent directly to this office.

As all matters relating to port regulations in California were assigned by the President to the commander-in-chief of the Pacific squadron, (and it is known that these instructions have been changed,) the collector will, on such subjects, act in accordance with the views of the commanding naval officer. Such instructions have heretofore been communicated by the Commodore through the Governor, but if they shall be sent directly to the collectors they will nevertheless be obeyed. In all other matters relating to the collection and disbursement of the revenue in California, the collectors (until further instructions) will be

subject only to the order of the Governor; and no orders, unless emanating from him, or communicated through him, will be recognised or obeyed; and all officers having or receiving these civil funds will be held to a strict accountability, and no portion of them will be paid out, or transferred, or loaned to any military fund, without a written order of the Governor, communicated through the proper channel. The difficulties which have occurred in keeping these civil funds separate from the appropriation for military purposes, and the frequent delays in making out accounts and returns—difficulties attributed to the fact that orders have been received and acted on which did not emanate from the Governor, or were not communicated through the proper channels—render it necessary that these instructions be rigorously enforced. The military officers appointed to receive the revenue from the collectors, will render to this office monthly summary statements at the end of every month, and their quarterly papers at the end of every quarter.

Such portion of the civil funds as may be required for that purpose will be expended to pay the expenses of the civil government of California, and the remainder held subject to order from Washington.

By order of Governor Riley.

H. W. HALLECK,
Brevet captain and secretary of State.

HEAD-QUARTERS, TENTH MILITARY DEPARTMENT,
Monterey, California, June 2, 1849.

COMMODORE: I have received information from a reliable source that several Peruvian or Chilian vessels have recently landed passengers and freight in the bays of San Simeon and San Luis Obispo, (between this port and Santa Barbara,) in violation of the revenue laws of the United States. I have therefore to request that the naval forces under your command may take measures to seize said vessels and goods, and to prevent repetition of the offence Captain Wilson, of San Luis Obispo, now in San Francisco, will give you more particular information with respect to this matter.

I am, sir, very respectfully, your obedient servant,

B. RILEY,
Brevet Brig. Gen., U. S. A., commanding 10th military department, and Governor of California.

Commodore THOS. AP C. JONES,
Commanding U. S. naval forces in the Pacific ocean.

EXECUTIVE DEPARTMENT OF CALIFORNIA,
Monterey, August 30, 1849.

GENERAL: I have the honor to transmit, herewith, copies of civil papers and letters issued by me since my despatch of June 30, and to continue my report on the civil affairs of this country from this date.

Accompanied by Captain Halleck, secretary of State for California, and Major Canby, Captain Westcott, and Lieutenant Derby, of my

military staff, I left this place on the 5th July for the purpose of inspecting the military posts in the interior, and of learning, from personal observation, the actual state of affairs in the mineral regions, and also of allaying, so far as I could, the hostile feeling which was said to exist between the Americans and foreigners who were working in the gold placers. My report on the state of the troops, and a more detailed account of my tour, will be forwarded with my military papers.

Passing the mission of San Juan Bautista, we crossed the coast range of mountains near the ranche of Senor Pacheco, and struck the San Joaquin river, near the mouth of the Merced, and after visiting Major Millar's camp on the Stanislaus, we proceeded to examine the principal placers on the tributaries of that river and of the Tualumne. These washings or diggings have been among the richest and most productive in California.

They are situated within a circuit of some twelve or fifteen miles, and are known as Jamestown, Wood's creek, Sonorenian camp, Sullivan's creek, Curtis's creek, French creek, Carson's creek, and Angelo creek. Some of these have become places of considerable business, particularly the Sonorenian camp, which presents the appearance of a city of canvass houses.

Passing the Stanislaus river in the mountains, we proceeded to Major Kingsbury's camp, near the mouth of the American river, crossing in our route the Calaveras, Moquelume, Seco, and Cosumnes rivers; all of which have rich washings near their sources, and on their bars and islands. From Major Kingsbury's camp we ascended the American river to Cullamo hills, where the first placer was discovered by Captain Sutter's employees in the spring of 1848. From Cullamo we crossed the country to Stockton, a new town on an estero some distance above the mouth of the San Joaquin, and thence proceeded to Colonel Cazey's camp at the straits of Carquinnes; returning via San Francisco to Monterey, which place we reached on the afternoon of the 9th instant.

We found the country at this season dry and parched by the sun, the heat of which became very great the moment we crossed the coast range of mountains. The thermometer ranges as high as 113° Fah. in the shade, and above 140° Fah. in the sun. A great portion of the valley of the Joaquin is so barren as scarcely to afford subsistence for our animals, and can never be of much value for agricultural purposes. There, however, is some excellent land on the east side of that river, bordering its large tributaries. A considerable portion of the valleys of the Moquelume, Seco, Cosumnes, and American rivers is also well adapted to agriculture, and the broad plains lying between them furnish abundant pasture for raising stock.

But the amount of good arable land, as compared with the extent of country which we passed over, is small, and I am inclined to believe that the richness and extreme fertility of certain localities have led to erroneous conclusions respecting the general character of the country. Certain it is, that while there may be found sufficient arable lands to

support, if well cultivated, a numerous population, there is also a very great extent of rough and mountainous country, and sandy and barren plains, which are of little value. The great difficulty to be encountered in agricultural pursuits in some portions of California is the want of water for irrigation, but possibly this difficulty may be overcome in part by resorting to Artesian wells; if so, much of the public land which is now unsaleable may be brought into market, and the settlement of the country greatly accelerated. I would therefore suggest, whether it may not be advisable for our Government to direct some experiments to be made at the public expense in sinking wells of this character; for even if unsuccessful as a means of irrigation, their construction will greatly assist in determining the geological character of the country. At present, nearly all agricultural labors are suspended in the general scramble for gold; but the enormous prices paid for fruit and vegetables in the towns will undoubtedly induce many, during the coming year, to turn their attention to the cultivation of the soil. The failure on the part of Congress, at its last session, to authorize the sale of public lands in California has proved detrimental to the agricultural interest of the country.

A large number of those who have recently emigrated to California are desirous to locate themselves permanently in the country, and to cultivate the soil, but the uncertainty which exists with respect to the validity of land titles in California, and to what actually constitutes the public domain, serves as a serious check to the forming of new agricultural settlements; moreover, speculators are purchasing up fraudulent and invalid titles to large tracts of the public domain, and selling them off in parcels, and at enormous profits, to those who have recently arrived in the country, and who are necessarily ignorant of the real state of the case. All the mission lands in California were secularized, or made Government property, by a law of Mexico, dated August 17th, 1833, and the territorial government of California, under the authority of the Mexican laws, leased and sold a portion of these lands and mission property. Another portion of this property, however, still remained unsold, when the Americans took possession of the country, and it has since been left in the hands of Government agents for preservation. Erroneously supposing that these lands are subject to pre-emption laws, some of the recent emigrants have attempted to settle upon them.

But I cannot deem myself justifiable in permitting this, for I do not conceive that lands which have been under cultivation for half a century, and now belong to Government, can be subject to the pre-emption claims of private individuals in the same manner as the uncultivated lands of the public domain. It is, however, important for the interest of the country that these mission lands be brought into market with the least possible delay, and also that provision be made by law for the settlement and sale of other public lands in California; and, as disputes are almost daily occurring between individuals respecting the extent of their several claims, and the validity of their titles, I would urge upon our Government the necessity of immediately taking measures for the

speedy and final settlement of these titles upon principles of equity and justice. This is absolutely essential for the peace and prosperity of the country.

For information connected with this subject, I beg leave to call attention to the report of Captain Halleck, secretary of State for California, which was forwarded to Washington by my predecessor, in the early part of April last.

Before leaving Monterey I heard numerous rumors of irregularities and crimes among those working in the placers; but, on visiting the mining regions, I was agreeably surprised to learn that every thing was quite the reverse from what had been represented, and that order and regularity were preserved throughout almost the entire extent of the mineral districts. In each little settlement, or tented town, the miners have elected their local alcaldes and constables, whose judicial decisions and official acts are sustained by the people, and enforced with much regularity and energy. It is true that in a few instances certain local questions have produced temporary excitements and difficulties, but none of these have been of a very important character, or led to serious results. Alcaldes have probably, in some cases, and under peculiar circumstances, exercised judicial powers which were never conferred upon them by law, but the general result has been favorable to the preservation of order and the dispensation of justice.

The old placers are still exceedingly productive, and new ones are almost daily discovered in the smaller streams, running from the western slope of the Sierra Nevada into the great valleys of the Sacramento and San Joaquin rivers.

I am satisfied, however, from personal observation, that very exaggerated accounts have been sent to the United States respecting the ease with which the precious metal is extracted from the earth, and that many who come to this country with the expectation of acquiring sudden wealth, with little or no labor, will be sadly disappointed. It is true that the reward of labor in the mines is very high; but it should not be forgotten that gold digging and gold washing in that climate require strong constitutions and great physical exertions, and very few need expect to acquire fortunes by working the placers, without severe labor and fixed habits of industry and temperance. The yield of different localities is, of course, very different; some of the placers being exceedingly rich, while the product of others is scarcely sufficient to pay the expenses of working. But I think the general averages per diem, for those actually employed in washing for gold, will not vary much from an ounce or an ounce and a half per man; some make much more than that sum, while those who are less fortunate fall much short of it. The actual number of persons working the placers will not vary much from ten thousand. The entire population now in the mining district is much greater than that number; but many are engaged in mercantile pursuits and in transporting goods and provisions, while others employ much of their time in "prospecting," or looking for newer and richer localities.

I also found that the reports which had reached me of hostilities between Americans and foreigners in the mining districts were greatly exaggerated, and that, with a few individual exceptions, every thing had remained quiet and orderly. In some of the northern placers a party of Americans and Europeans, urged on by political aspirants, who seem willing to endanger the peace and tranquillity of the country, in order to promote their own personal interest, have assumed the authority to order all Mexicans and South Americans from that part of the territory. Their orders were quietly submitted to by the foreigners, a portion of whom removed to the mines further south, where the American population manifested a very decided disposition to afford them protection, should they be further molested. The more intelligent and thinking portion of Americans regard this measure as illegal and injudicious, and will discountenance any repetition of movements so well calculated to disturb the public tranquillity and to create bitter and exasperated feelings, where it is evidently our policy to cultivate those of the most friendly character. Some of the English, Irish, and German emigrants, in the northern placers, assisted in this movement against the Mexicans, Peruvians, and Chilians, and probably exerted themselves much more than any of our own citizens to create a prejudice and excitement against the Spanish race. They were probably actuated by pecuniary interest. The great influx of people from the southern portion of this continent was diminishing the price of labor in the towns near the northern rivers, and the large number of pack animals brought from Lower California and Sonora was producing a corresponding reduction in the expenses of transportation.

For example, the price of a pack mule in some parts of the mining districts, a few months ago, was about $500, whereas they can now be purchased for less than $150. The cost of transportation from the principal landing on the San Joaquin river to the Sonorenian camp was $75 per hundred, whereas at the present time it is only about $7.

This has reduced the prices of provisions in the placers one and two hundred per cent. Some of the merchants who had large stocks of goods in the mines, and those who were engaged in transportation at the prices formerly paid, have suffered by the change, and it is natural that they should feel incensed against that class of foreigners who have contributed most to effect it.

But it is thought by others that the great majority of the laborers and consumers in the mining districts have been benefitted by this change, and that it would be injurious to the prosperity of the country to restore things to their former state, by the expulsion and prohibition of foreigners from the mines. Americans, by their superior intelligence and shrewdness in business, generally contrive to turn to their own benefit the earnings of the Mexicans, Chilians, and Peruvians in this country, and any measure of exclusiveness which is calculated to diminish the productive labor of California, would be of exceedingly doubtful policy.

When applied to by the different parties for my opinion on the ques-

tion of expelling foreigners, I have uniformly told them that no persons, native Americans or foreigners, have any legal right to dig gold in the public lands, but that, until the Government of the United States should act in the matter, they would not be molested in their pursuits; that I could not countenance any class of men in their attempts to monopolize the working of the mines, and that all questions touching the temporary right of individuals to work in particular localities, of which they were in actual possession, should be left to the decision of the local judicial authorities.

I cannot close my remarks on this subject without again calling the attention of the Government to the importance of establishing a mint in California at the earliest moment. This measure is called for by every consideration of natural policy and of justice to the mercantile mining population of California.

General Kearney, during his administration of affairs in this country, appointed, by virtue of his authority as governor of California, two sub-Indian agents, who have ever since been continued in office, and their services found of great utility in preserving harmony among the wild tribes, and in regulating their intercourse with the whites.

They have been paid from the "civil fund" very moderate salaries, which will be continued until arrivals of agents regularly appointed by the General Government. Notwithstanding every effort on the part of those agents, and of the officers of the army here, it has not been possible at all times to prevent aggression on the part of the whites, or to restrain the Indians from avenging those injuries in their own way.

In the month of April last, the agent in the Sacramento valley reported that a body of Oregonians and mountaineers had committed most horrible barbarities on the defenceless Indians in that vicinity.

Those cruel and inhuman proceedings added, perhaps, to the execution of a number of chiefs, some year and a half since, by a military force sent into the San Joaquin valley by my predecessor, (the facts of which were reported to Washington at the time,) have necessarily produced a hostile feeling on the part of the natives, and several small parties of whites, who, in the pursuit of gold, ventured too far into the Indian country, have been killed.

My correspondence with the Indian agents and military officers established in the Sacramento and San Joaquin valleys will inform you of the measures taken to prevent a repetition of these difficulties.

I would respectfully recommend that at least three sub-Indian agents be appointed for this country, and stationed in the valleys of the Sacramento and San Joaquin.

These agents should receive ample pay, in order to enable them to defray the expenses of living in that part of the country, and should be men of the highest moral character, for otherwise they would not resist the temptation to engage in illicit trade with the natives, or to employ them for the individual benefit of the agents in washing for gold.

The election called by me for the first instant was held on that day, and has been attended with the most happy results.

Every district has elected its local officers, and appointed delegates to meet in general convention at this place on the first proximo, to form a State constitution or plan of territorial government, which will be submitted to the people for their ratification and transmitted to Washington for the action of Congress.

Most of the local and judicial officers named in my proclamation of the 3d of June have already entered upon their duties, and the interest which was taken by the people in every part of the country in this election, and the zeal manifested by those elected and appointed to office, afford strong hopes that the existing government will be able to preserve order and secure the administration of justice, until a new one shall be put into regular and successful operation.

In my former despatch I mentioned that the civil officers of the existing government would be paid their regular salaries from the "civil funds," which had been formed under the direction of the Governor of California, mainly out of the proceeds of the temporary custom-houses established by my predecessors on this coast.

It will also be necessary to use a portion of this fund in the immediate construction of jails for the security of civil prisoners.

The want of such jails has already led to the most serious inconveniences; prisoners have so frequently effected their escape, that, on several occasions, the people have risen in masses and executed criminals immediately after trial, and without waiting for the due fulfilment of all the requisitions of the laws.

In many cases it has been found necessary to confine civil prisoners on board vessels of war, and in the guard-houses of the garrison; but in towns, at a distance from the coast and the military posts, the difficulty of retaining prisoners in custody has led, in some instances, to immediate and summary executions.

This evil calls for an immediate remedy, which will be afforded so far as the means at my disposal will admit.

I beg leave, in this place, to add a few remarks on the use which has been, and will continue to be, made of this "civil fund."

In the instructions from Washington to General Kearney, in 1846, for his guidance in California, the establishment of port regulations on this coast was assigned to the commander of the Pacific squadron, while it was said "the appointment of temporary collectors at the several ports appertains to the civil governor of the province."

It was also directed that the duties at the custom-houses be used for the support of the necessary officers of the civil government. This division of duties and this disposition of the proceeds of the customs were continued during the whole war.

On the receipt of the Treasury Department regulations respecting the collection of military contributions in Mexico, officers of the army and navy were made collectors at some of the ports, but at others the civil collectors appointed by the Governor of California were retained.

At the close of the war, Governor Mason, for reasons already communicated, determined to continue the collection of revenue in the country, on the authority which had previously been given to him, until Congress should act in the matter, or orders to the contrary be received from Washington. He, therefore, as governor of California, again appointed civil collectors in the ports where military officers had temporarily performed those duties, and collected the customs on all foreign goods, in accordance with the provisions of the tariff of 1846, while the commander of the Pacific squadron continued the direction of all matters relating to port regulations. A double necessity impelled the Governor to this course. The country was in pressing need of these foreign goods, and Congress had established no port of entry on this coast. The want of a more complete organization of the existing civil government was daily increasing, and, as Congress had made no provisions for supporting a government in this country, it was absolutely necessary to create a fund for that purpose from the duties collected on these foreign goods. It is true, that there were no laws authorizing the collection of these duties; but, at the same time, the laws forbade the landing of the goods till the duties were paid. Governor Mason, therefore, had no alternative but to pursue the course which he adopted. He immediately communicated to Washington his action in the case; and as the receipt of his despatch was acknowledged without any dissent being expressed, it must be presumed that his course met the approbation of the Government.

When I assumed command in this country as civil governor, I was directed to receive these communications and instructions from Governor Mason for my guidance in the administration of the civil affairs of this Territory. I have accordingly continued the collection of the revenue and added the proceeds to the "civil fund," using that fund for the necessary expenses of the civil government. The expenses of employing civil officers in this country are very great, and as I have no authority to lay taxes, this fund forms my only means of carrying on the government. The necessity of employing these officers and of paying them the full salaries authorized by law under the existing state of affairs, is too obvious to require comment. I have pledged myself to pay those salaries from the "civil fund," unless forbidden to do so by direct orders from Washington, and that pledge will be fulfilled. This civil fund was commenced in the early part of 1847, and has been formed and used in the manner pointed out in the early instructions to the Governor of this Territory. This money has been collected and disbursed by the "Governor of California," and by those appointed by him in virtue of his office. He is, therefore, the person responsible for this money, both to the Government and to the parties from whom it is collected, and it can be expended only on his orders. None of the military departments of the army, nor any army officer simply in virtue of his commission, can have any control, direct or indirect, over it. It is true that some of this money has, from time to time, as the wants of the service required, been transferred to the dif-

ferent military departments; but this transfer was in the form of a loan, and the money so transferred will be returned to the "civil fund" as soon as arrangements can be made for that purpose. The increased expenditures for the support of the existing government will soon render this restoration absolutely necessary; especially as the transfer of the custom-houses to the regular collectors appointed by the General Government will now cut off all further means of supplying the civil treasury. These collectors have not yet arrived, but are daily expected. Detailed accounts of the expenditure of this "civil fund," with the accompanying vouchers, will be transmitted to Washington as heretofore.

Very respectfully, your obedient servant,

BENNET RILEY,
Brevet Brig. Gen., U. S. army, and Gov'r of California.

Major General R. JONES,
Adjutant General of the Army, Washington, D. C.

Circular.

STATE DEPARTMENT OF CALIFORNIA,
Monterey, July 2, 1849.

Official information having been received that a collector and deputy collector of customs, for the district of California, have been appointed according to law, and are now en route for their respective stations, it is therefore directed that, on their arrival and the presentation of their appointments, the temporary collectors appointed by the authority of the Governor of California, cease their functions; and that they, and all other officers of this department, turn over to said collectors, and their deputies, all books and other custom-house property in their possession, taking the necessary receipt for the same.

So much of these moneys as may be requisite for that purpose, will be expended, by the order of the Governor, to defray the expenses of the existing civil government of California, and the remainder held subject to such disposition as Congress may direct.

By order of the Governor:

H. W. HALLECK,
Brevet captain and secretary of State.

STATE DEPARTMENT OF CALIFORNIA,
Monterey, August 10, 1849.

GENTLEMEN: I am directed by the Governor to acknowledge the receipt of your letter of the 7th instant, and to say that it would give him great pleasure to afford every facility in his power for increasing the circulating medium in your city, and to supply the want of coin; but as it is quite certain, from information just received, that the new collectors will arrive in a very few days with instructions direct from the Government at Washington, he deems it improper to make any

changes in the regulations now established for the custom-houses in California. Any changes he might make could not continue more than a few days; for the moment the new collector arrived, the entire control of the revenue will pass to other hands.

I am, gentlemen, very respectfully, your obedient servant,

H. W. HALLECK,

Brevet captain and secretary of State.

Messrs. WRIGHT & Co.,

San Francisco, California.

STATE DEPARTMENT OF CALIFORNIA,

Monterey, August 11, 1849.

GENTLEMEN: I am directed by the Governor to acknowledge the receipt of your letter of the 8th instant, and to inform you that he cannot make any loan of the public funds in his possession. He, however, will direct Major R. Allen, the treasurer of the "civil funds," to pay over to the municipality of San Francisco the sum of ten thousand dollars, ($10,000,) on the following conditions, viz:

1st. That said municipality give to the treasurer of California proper pledges and security that this money shall be expended in the erection or purchase of a suitable building or buildings for a district jail and court-house, and that an equal sum has been received and appropriated by the said municipality for the same purpose.

2d. That the treasurer of California shall be satisfied that the treasurer of San Francisco has given good and sufficient bonds for the safe keeping and proper expenditure of this money.

3d. That none of this money be expended by the town treasurer, except on the orders of the town council, signed by its legally constituted officers.

Very respectfully, your obedient servant,

H. W. HALLECK,

Brevet captain, and secretary of State.

DR. JOHN TOWSEND, and others,

Committee of town council of San Francisco, California.

STATE DEPARTMENT OF CALIFORNIA,

Monterey, August 11, 1847.

SIR: I am directed by the Governor to inform you that he received yesterday your letter of June 14 and 15, communicating the information that the Chilian brig "Imperial" had put into the port of Santa Barbara in distress, and been condemned as unseaworthy; that you had permitted the cargo to be landed, and warehoused on deposite; that you had permitted a few articles to be sold, and collected the duties thereon, to the amount of $94.50, and had received duties from a passenger in said vessel to the amount of $300.75, both of which sums you hold at the disposal of the Government. The Governor will immediately despatch a custom-house agent to Santa Barbara to collect the duties on the cargo of the condemned vessel. An agent cannot be permanently stationed at that place till after the arrival of the new

collector of customs for California, who it is supposed will bring from Washington full instructions touching the revenue on this coast.

Very respectfully, your obedient servant,

H. W. HALLECK,
Brevet captain and secretary of State.

DON RAYMUNDO CARRILLO,
Alcalde, Santa Barbara, California.

STATE DEPARTMENT, TERRITORY OF CALIFORNIA,
Monterey, August 13, 1849.

MAJOR: I enclose herewith an extract from a circular from this department, dated February 24, and also a copy of a circular dated July 2, 1849.

As "treasurer of California," you will strictly observe the instructions contained in these circulars, respecting the keeping, expenditure, and accountability of the "civil fund" of this Territory.

All your quarterly returns and papers will hereafter be rendered to this office in duplicates, one copy of which will be forwarded to Washington, and the other retained in this office for the information of the Governor.

Until the arrival of the new collector appointed under the laws of Congress, it is made your duty to receive at the end of every month from the temporary collector of San Francisco all the proceeds of the customs, and to examine and audit his accounts.

As charges of a serious character have been made respecting the management of the custom-house affairs at San Francisco and the official conduct of some of its subordinate officers, the Governor directs that you will immediately make a thorough examination of the custom-house affairs at that place, and official conduct of all the employees of that establishment; and he authorizes you to associate with yourself for this examination two other persons of suitable character and capacity, to each of whom you will pay the sum of ten dollars per day for every day they are so employed.

All the books of the custom-house will be submitted to your inspection, and you are empowered by the Governor to administer oaths and send for persons and papers.

A full report of your proceedings will be made out and signed by yourself and the other members of the commission, and sent to this office for the information of the Governor.

Arrangements will be made by you for the payment at San Francisco and Monterey of the salaries of the civil officers of California at least every quarter, and due notice given of the times and places of such payments.

Very respectfully, your obedient servant,

H. W. HALLECK,
Brevet captain and Secretary of State.

Major ROBERT ALLEN,
Treasurer of California, San Francisco, California.

STATE DEPARTMENT OF CALIFORNIA,
Monterey, August 13, 1849.

SIR: I am directed by the Governor to acknowledge the receipt of your letter of July 4, asking, on the part of the ayuntamiento, his orders respecting the construction of a jail in Santa Barbara.

As soon as the ayuntamiento shall have made arrangements for the purchase or erection of a suitable building for a jail and court-room, and raised money for that purpose, the Governor will assign to Santa Barbara, from the "civil fund," a corresponding sum, not to exceed $6,000.

The Governor requests that the ayuntamiento will take immediate measures for the accomplishment of this object, either by subscription or a municipal tax, and report to him the amount of money so collected, in order that he may make the assignment required.

Very respectfully, your obedient servant,

H. W. HALLECK,
Brevet captain and Secretary of State.

Don RAYMUNDO CARRILLO,
Alcalde, Santa Barbara, California.

STATE DEPARTMENT OF CALIFORNIA,
Monterey, August 22, 1849.

MAJOR: In compliance with your request of the 18th instant, I transmit herewith copies of reports from Captains Folsom and Marcy and Lieut. Davidson, from which you will be able to ascertain the amounts due the "civil fund" from the military departments of the Government.

The sum of $6,200 transferred by Captain Folsom to Captain Marcy was for civil purposes, and has been accounted for by him as such.

The $10,000 transferred to Major Hardie was for raising troops in Oregon, but very little of it was so expended; nor, so far as is shown by the records of this office, has it ever been restored to the civil fund.

The $70,000 transferred to Purser Forest was for paying the expenses of bringing emigrants from Lower California. The loan was made to the navy at the request of Commodore Jones, but how much of it was expended is not known. Nor is it known that any arrangements have been made for refunding the sum of $3,500 transferred to Major Rich, and the sum of $2,000 transferred to Lieutenant Warren. All these items should, therefore, be charged on your books as due the "civil funds."

It appears from Lieutenant Davidson's accounts, enclosed herewith, that he transferred $10,804 50 to the quartermaster's and commissary's departments; but as his accounts have been sent to Washington, I do not know how much to each, nor the dates of the transfer. As Lieutenant Davidson is in your vicinity, you can get these items from him. It appears from the enclosed copy of a letter from Captain Ingall, that he has received $896 70 of "civil funds" from the collector of San Pedro.

It does not appear from the records of this office that any authority or permission was ever given for the transfer, nor was it known here that the money had been so transferred till the receipt of Captain Ingall's letter on the 21st of June last.

In addition to the items mentioned in Captain Marcy's report, that officer has loaned from the "civil funds" the following sums:

1848, August 17,	to Captain Lanman, U. S. navy	-	$50 00
" Sept. 30,	to " " " -	-	60 00
" October 13,	to " " " -	-	500 00
" August 30,	to S. E. Woodworth -	-	100 00
" April 12,	to Colonel R. B. Mason -	-	2,500 00

None of this money has ever been returned or accounted for, and it should therefore appear on your books as due the civil funds. The amount of "civil funds" in the hands of Lieutenant Davidson, December 31, has been paid over to Captain Kane.

Very respectfully, your obedient servant,

H. W. HALLECK,
Brevet captain and secretary of State.

Major R. ALLEN,
Treasurer, Benicia.

EXECUTIVE DEPARTMENT OF CALIFORNIA,
Monterey, August 30, 1849.

COLONEL: I have the honor to acknowledge the receipt of yours of the 12th instant, communicating the views of General Smith respecting my acts and duties as governor of California.

I must beg leave to dissent from some of these views, and to offer a few remarks in defence of the course which I have pursued in the administration of civil affairs in this country.

In the instructions issued from Washington to General Kearny in 1846, for his guidance in California, the establishment of port regulations was assigned to the commander of the Pacific squadron, while it was said "the appointment of temporary collectors at the several ports appertains to the civil governor of the province." It was also directed that the duties at the custom-houses should be used for the support of the necessary officers of the civil government. This division of duties, and this disposition of the proceeds of the customs, were continued during the whole war, except that, for a part of one year, the duties of collectors in some of the ports were performed by army and navy officers, while in others the civil collectors, appointed by the Governor of California, were retained. On the reception of the treaty of peace, Governor Mason, for reasons which have been communicated to Government, determined to continue the collection of revenues in this country, on the authority which has been given him, until Congress should act in the matter, or orders to the contrary should be received from Washington. He, therefore, as governor of California, again

appointed collectors in the ports where military officers had performed those duties, and collected the customs on all foreign goods, as directed in the tariff of 1846; the Commodore of the Pacific squadron continuing the direction of all matters relating to port regulations.

A double necessity impelled the Governor to this course; the country was in pressing need of these foreign goods, and Congress had established no port of entry on this coast; the want of a more complete organization of the existing civil government was daily increasing, and as Congress had made no provision for supporting a territorial government in this country, it was absolutely necessary to obtain a fund for that purpose from duties collected on these foreign goods. It is true, there was no law of Congress authorizing the collection of those duties, but, at the same time, the laws forbade the landing of the goods till the duties were paid. Congress had declined to legislate on the subject, and both the President and Secretary of the Treasury acknowledged the want of power of the Treasury Department to collect revenue in California. The Governor of California, therefore, assumed the responsibility of collecting this revenue for the support of the government of this country, a responsibility which he was fully justified in assuming by the necessity of the case, by the instructions which he had received from Washington, (and which had never been countermanded,) and by the existing laws of the country. It is not pretended that the Governor of California could derive any authority, either from the laws of this country or the instructions of the President, to collect revenue here, after Congress assumed the control over it. But in the interim, between the signing of the treaty of peace and the extension of the revenue laws over this country, it is a fair presumption that the temporary regulations, established here by Executive authority, respecting foreign commerce continued in force so far as they conflicted with no provision of the Constitution, treaties, or laws of the United States; at any rate, such was the course which Governor Mason determined to pursue, and as this determination was immediately communicated to Washington, and the receipt of his despatch acknowledged without one word of dissent being expressed, it is to be presumed that his action in the case met the approval of the Government. The Executive departments, though well informed of the course which the Governor of California was pursuing in reference to the collection and disposition of this money, refrained from any interference; and in all their orders, letters, and circulars, they most carefully avoided expressing the slightest disapprobation, or even doubt, as to the propriety of that course. Congress was fully aware that Governor Mason was collecting revenue here for the support of the civil government, and yet that body declined passing any laws for appointing collectors on this coast till the very close of the session, and even then no cognizance was taken of the moneys which had been or might be collected previous to the appointment and due instalment of these officers. The reason of this is obvious; as Congress had failed to organize a territorial government here, all were aware that the existing government must continue in

force, and that it must have some means of support; such means were found in the neglected revenues of this coast, and employed for that object, and no one felt disposed to interfere, or to turn these revenues into the general treasury, until a fund was established sufficient for the more immediate and urgent wants of California. On no other supposition can we account for the action of Congress and of the authorities at Washington. It cannot for a moment be supposed that they would direct the continuance of a government here without the means of defraying its expenses; nor that they would tax, through the custom-houses, the people of this infant colony, and at the same time deprive them of all the benefits of a government. Such a course might accord with the policy of the despotic powers of the old world, but it could never be attempted with impunity in our country.

On assuming command in this country as civil governor, I was directed to receive from Governor Mason all his instructions and communications, and to take them for my guidance in the administration of civil affairs. Upon an examination of these instructions, and a full consultation with Governor Mason, I determined to continue the collection of the revenue until the General Government should assume that power, and to add the proceeds to the "civil fund"—using that fund for the necessary expenses of the civil government. Indeed I had no other course left for me to pursue. This fund formed my only means of defraying the expenses of the government, which were already great. These expenses are daily increasing, and as I have no power to impose taxes in this country, I cannot carry on the government without the moneys belonging to this "civil fund." Under existing circumstances, the necessity of employing civil officers, and of paying them the full salaries allowed by law, is too obvious to require comment. I have pledged myself to pay these salaries from that fund, unless forbidden to do so by direct orders from Washington, and I shall redeem my pledge.

This "civil fund" was commenced in the early part of 1847, and has been formed and used in the manner pointed out in the early instructions to the Governor of this Territory. The money has been collected and disbursed by the "Governor of California," and by those appointed by him in virtue of his office. He is, therefore, the person responsible for this money, both to the Government and the parties from whom it was collected, and it can be expended only on his orders. Not a cent of this money has been collected under the authority of any department of the army; nor can any such department, or any officer of the army, simply in virtue of his military commission, have any control, direct or indirect, over it. It is true some of this money has from time to time, as the wants of the service required, been transferred to the different military departments, but this transfer was in the form of a loan, and the money so transferred is still due the "civil fund," and should be returned. The increased expenditures for the support of the civil government, as *at* is now organized, and the pressing necessity of constructing prisons for the security of civil

prisoners, will soon render this restoration absolutely essen*tion*[ial,] in order to carry on the government, especially as the transfer of the custom-houses to the regular collectors appointed by the General Government will now cut off all further means of supplying the civil treasury.

Entertaining these views of the correctness of the course which has been pursued by my predecessor, and by myself, respecting this "civil fund," I was not a little surprised at the ground assumed in your communication that the authorities in California "are agents of the military authority of the department," and that "disbursing officers (of the army) are allowed to draw on this deposite (the civil fund) for all expenses for which there are appropriations by law."

No collectors in California now hold or have ever held any appointments, commissions, or authority from any military department; nor have they ever received any orders or instructions from such sources. All their powers have been derived from the Governor of California, and they have been subject to his orders only. No disbursing officer of the army, or of the General Government, has ever been allowed to draw upon this "civil fund," except in character of civil agent, or as a loan to a military department. And I am both surprised and mortified to learn that at this late hour an attempt is to be made to remove this money from my control, and to place it at the disposition of officers who have had no responsibility in its collection, and who of right can exercise no authority over it. Under the peculiar situation of the country, with an immense floating population collected together from all parts of the world, I thought my position as Governor of California sufficiently embarrassing, without having new obstacles placed in my way by any attempts to deprive me of the only means at my disposal for carrying on the government.

If I mistake not, the opinion that the Governor of California has no control over the "civil fund" is of recent origin. I am told that the civil order of General Mason, as governor of California, dated February 23d, to the collector at San Francisco, was shown to General Smith on that day and received his approbation, and that division orders No. 2 of the same date were issued at the request of Governor Mason for the purpose of showing the people of California that the course which had been adopted respecting the revenue on this coast accorded with the views of the General of the division. Moreover, that when informed that all the temporary collectors in California held their authority from the Governor, the General expressed no wish or desire that the system should be changed. Granting that the military authorities here had a right to assume entire control of the revenue on this coast, although the President of the United States (if I mistake not) has clearly asserted that no such powers could be exercised by officers of the General Government without the authority of Congress, it is nevertheless plain that no such power has been ever exercised. If such a course was intended by General Smith's orders of February 23d, these instructions were never properly carried into execution, nor until the receipt of your letter had I any intimation that such a course was at all desired. The

commanding General of the division was certainly aware that this whole revenue matter was managed by officers holding their authority from me as governor of California, and that when money was wanted by the military departments application was made to me to authorize the loan or temporary transfer from the "civil funds." If, however, it now be the General's wish to assume a military control of the collection of duties on imports into California, I will immediately discharge the collectors appointed by the Governors of California, and surrender the entire direction of the matter to such military department or military officers as he may direct. But for the money which has already been collected by the civil officers under my authority I alone am responsible, and until further instructions from Washington I shall continue to hold it, subject to my orders only, and to expend as heretofore such portions of it as may be required for the support of the existing civil government; no military officer or military department will be allowed to exercise any control over it. Let me not be understood as claiming for California any authority whatever over the duties on imports after that power was assumed and exercised by the General Government. But I do say, that when the General Government declined exercising that power, and voluntarily and knowingly permitted the proceeds of such duties to be devoted to the support of the existing civil government, it would be both unjust and ungenerous for military officers to attempt to embarrass the civil authorities by taking from them their only means of carrying on that government.

I have but a few words to add respecting that part of your letter which refers to the relations of the civil government with Indian affairs and public lands.

General Kearny, some two years and a half ago, in virtue of his authority as governor of California, appointed two sub-Indian agents, and immediately communicated these appointments to Washington. The General Government was also informed that these agents were paid from the "civil fund," and would be retained in office until the arrival of agents appointed by the proper authority at Washington.

No military officer has any control over these agents of the civil government, nor can they interfere in any way with the duties of the military officers. I have never claimed to exercise any authority as civil governor over lands properly belonging to the public domain; it, however, is a question still undecided, whether the missions of California, belong*ing* to the General Government, to the government of California, or to the church. The direction and preservation of this property have for many years been vested in the Governor of California, and this system will be continued till the General Government shall see fit to assume control over it. The rents of these missions are paid into the "civil fund," and expended as directed by the laws of California, but the leases are so conditioned as to cease whenever the agents of the United States shall be authorized to take possession of this property in the name of the General Government. The authorities at Washington

have been informed of this course, and as no dissent has ever been expressed, it is presumed it meets their approbation.

I beg leave to remark, in conclusion, that while I shall always be most happy to receive the advice and suggestions of the commanding General of the division respecting my duties as civil governor of California, I must nevertheless be permitted to decide upon the measures of my own government; for, as no military officer can be held accountable for my civil acts, so no such officer can exercise any control whatever over those acts.

Very respectfully, your obedient servant,

B. RILEY,

Brevet brig. gen., U. S. army, and Governor of California.

Brevet Lieut. Col. J. HOOKER,

Com'g department, asst. adjt. general, Pacific division.

EXECUTIVE DEPARTMENT OF CALIFORNIA,

Monterey, October 1, 1849.

GENERAL: Enclosed herewith are copies of all civil papers issued since the date of my last civil despatch.

The convention called by my proclamation of June 3d assembled at this place on the 1st ultimo, and has nearly completed its labors in forming a constitution to be submitted to the people for their ratification. It has been determined by the unanimous vote of this convention, (at least I am so informed,) that the new government organized under this constitution, should it be ratified by the people, shall go into operation as soon as may be convenient after such ratification, and without waiting for the approval of Congress and the admission of California into the Union. I have strong doubts of the legality of such a course under the decision of the Supreme Court of the United States; but if it should be the wish of the people of California to put the new government into operation without awaiting the action of Congress, I shall deem it my duty under the circumstances to surrender my civil powers into the hands of the new executive, unless special orders to the contrary are received from Washington. In my civil despatch of August 30, I explained the character of the "civil funds" now in my hands, and the use which would be made of them in defraying the expenses of the existing government; and I now ask for instructions as to the disposition to be made of such portions of these funds as may be left when this government shall be superseded by that organized by the constitution now forming by this convention. Many have expressed the opinion that these funds should be turned over to the new government to enable it to go immediately into successful operation. However strongly of the opinion that this money belongs, in justice, to the people of California, I nevertheless shall not deem myself authorized to turn over this money till instructed to do so by direct orders from Washington. I hope that the views of the Government touching this matter may be sent to me without delay.

I send herewith a copy of a report of Brevet Captain Wescott, respecting the missions of San Jose and Santa Clara. The temporary arrangement made for the care and arrangement of this property, will be seen in the copies of civil papers transmitted with this despatch.

Very respectfully, your obedient servant,

B. RILEY,

Brevet brig. gen., U. S. army, commanding department, and acting Governor of California.

Major General R. JONES,

Aujutant general, U. S. army, Washington, D. C.

EXECUTIVE DEPARTMENT OF CALIFORNIA,

Monterey, September 5, 1849.

COLONEL: Instructions have this day been sent to Major R. Allen, treasurer of the "civil fund," to loan to Major H. Leonard, for the use of the pay department, the sum of $30,000. This transfer will be made from the civil fund now in the hands of Major Allen, as it cannot be spared from the civil fund south of San Francisco, without embarrassing the payments of the expenses of the civil government in the middle and southern districts.

The substance of your letter of August 29, has already been replied to in my communication of the 30th ultimo.

Very respectfully, your obedient servant,

H. W. HALLECK,

Brevet captain and secretary of State.

Lieut. Col. J. HOOKER,

Assistant adjutant general, San Francisco, California.

EXECUTIVE DEPARTMENT OF CALIFORNIA,

Monterey, September 11, 1849.

GENTLEMEN: I have the honor to acknowledge the receipt of your communication of yesterday, respecting the mode of providing for the payment of the expenses of the convention now in session.

I consider myself authorized by the Executive of the United States to use the "civil funds" now in my hands for defraying the necessary expenses of the civil officers of the existing government.

The necessary expenses of the convention will be paid by me from this fund as far as I may have the means at my disposal, but as these means may be limited, and as I am held responsible to the Government of the United States for the expenditure of the money, I cannot say beforehand whether I shall feel authorized to pay all, or, if not all, what proportion of the expenses incurred by the convention.

Very respectfully, your obedient servant,

B. RILEY,

Brevet brig. gen., U. S. army, and Governor of California.

Messrs. C. T. BOTTS, E. O. CROSBY,
T. O. LARKIN, ELAM BROWN, R. M. PRICE, *Committee.*

EXECUTIVE DEPARTMENT OF CALIFORNIA,
Monterey, September 13, 1849.

SIR: I have the honor to acknowledge the receipt of your note, (without date,) with a copy of a resolution of the committee asking if I can place at the disposition of the convention, on or before the first day of October next, the sum of $70,000. I have no authority to place any of the public money now under my control at the disposition of any other person; but, as stated in my letter of the 11th instant, I shall consider it my duty to pay, so far as my means will allow, all the necessary expenses of the convention. I cannot, however, now say positively whether I shall have money enough at my disposal for the accomplishment of this object. In order that your committee may judge of this contingency for yourselves, I enclose a copy of my letter of August 30 to Lieutenant Colonel Hooker.

Very respectfully, your obedient servant,

B. RILEY,
Brevet brig. gen., U. S. army, and Governor of California.

Hon. C. T. BOTTS, *Chairman, &c.*

STATE DEPARTMENT OF CALIFORNIA,
Monterey, September 22, 1849.

SIR: I am directed by the Governor to enclose you herewith a copy of the harbor master's letter of August 24, and to offer you the superintendence of the improvements proposed in that letter. The immediate establishment of these buoys is deemed absolutely necessary for the safety of the shipping in the bay of San Francisco; and as Congress has made no provision for these improvements, the Governor has determined to provide for the expenses out of the "civil fund" now in his hands. These expenditures must be limited to the sum of ten thousand dollars, exclusive of your own pay as superintendent, which will be two hundred and fifty dollars per month. These improvements should be made with the least possible delay.

Very respectfully, your obedient servant,

H. W. HALLECK,
Brevet captain and secretary of State.

Captain C. RINGOLD,
San Francisco, California.

EXECUTIVE DEPARTMENT OF CALIFORNIA,
Monterey, October 31, 1849.

GENERAL: The convention which assembled at this place on the first of September has completed its labors, and the constitution formed by that body was submitted on the 12th instant to the people for their approval, and I have no doubt of its being ratified by the almost unanimous vote of the qualified electors of this country. A printed copy of this constitution is enclosed herewith. You will see by examining

the schedule that it is contemplated to put the new government into operation on or soon after the 5th day of December next, and I shall then surrender my civil powers to whosoever may be designated under the constitution as the executive of the new State. Whatever may be the legal objections to putting into operation a State government previous to its being acknowledged or approved by Congress, these objections must yield to the obvious necessities of the case ; for the powers of the existing government are too limited, and its organization too imperfect, to provide for the wants of a country so peculiarly situated, and of a population which is augmenting with such unprecedented rapidity.

I have deemed it my duty to pay from the "civil funds" the current expenses of the convention, and also the salaries of officers as authorized by that body. In the absence of any legislative assembly, I have regarded this convention as representing the wishes of the people of California in the matter of public expenditures. It is true, that the salaries and payments authorized by the convention were high, and by some may be considered extravagant; but in deciding upon their justice, we must take into consideration the peculiar state of the country, and the high prices paid here for every thing, even including the necessaries of life. It however will continue to be my aim, as it has been heretofore, to keep the expenditures from the "civil funds" within the limits of the strictest economy ; nevertheless, the expenses of a civil government in this country are now, and will be for years to come, very large.

The whole country remains remarkably quiet, and the civil officers encounter no serious difficulties in enforcing the laws. It is therefore hoped and believed, that the powers of the existing government will be found sufficiently ample to preserve the public tranquillity until it shall be replaced by a more perfect organization under the constition.

For my views with respect to the proper disposition to be made of the mineral and agricultural lands in this country, with respect to the importance of establishing a mint in California, and the use which should be made of the "civil funds" which have accrued from the customs collected here by the Governor of California previous to the assumption by the General Government of the control of this matter, I would respectfully refer you to my former civil despatches. The attention I have given to these subjects since writing those despatches has only tended to confirm the opinions there expressed.

This despatch and the accompanying papers will be delivered to you by Mr. J. M. H. Hollingsworth, late lieutenant of the regiment of New York volunteers, disbanded in this country. He has, in accordance with the instructions of the Secretary of War, been furnished by the quartermaster's department with transportation to the place of enlistment. Mr. Hollingsworth has proved himself a faithful and trust-

worthy officer, and merits in every respect the confidence of the Government.

Very respectfully, your obedient servant,

B. RILEY,

Brevet brig. gen., U. S. A., and Governor of California.

Major General R. JONES,

Adjutant general of the army, Washington, D. C.

STATE DEPARTMENT OF CALIFORNIA,

Monterey, October 2, 1849.

MAJOR: I have to acknowledge the receipt of your letter of the 29th ultimo, enclosing a summary statement of "civil funds" for August. That letter has been submitted to General Riley, who directs me to express to you his surprise at your question, whether or not you were to continue to loan the "civil funds" to the quartermaster's department? In all the instructions which have been given respecting this fund, it has been expressly stated that none of this money could be expended or loaned without the direct order of the Governor.

Very respectfully, your obedient servant,

H. W. HALLECK,

Brevet captain and secretary of State.

Major R. ALLEN, *U. S. A.,*

San Francisco, California.

STATE DEPARTMENT OF CALIFORNIA,

Monterey, October 4, 1849.

GENTLEMEN: I am directed by the Governor to acknowledge the receipt of your letter of September the 30th. As the revenue laws of the United States are now extended over California, the Governor does not consider himself authorized to interfere in their execution. The collector of San Francisco is the proper person to decide whether you are entitled to the drawback of $381, and the Governor leaves the question for such action as he may deem proper.

Very respectfully, your obedient servant,

H. W. HALLECK,

Brevet captain and Secretary of State.

Messrs. E. MICKLE & Co.,

San Francisco, California.

STATE DEPARTMENT OF CALIFORNIA,

Monterey, October 8, 1849.

MAJOR: It appears from Major Fitzgerald's accounts, that Captain J. L. Folsom has retained the sum of $9,789 72 from the "civil funds," for which he has rendered no account. As no authority was given him to retain any of this fund, the amount will be charged to him on your books. It appears from the same accounts that $86,460 34

was transferred to the quartermaster's department on the 30th of June last. It should be charged accordingly.

Very respectfully, your obedient servant,

H. W. HALLECK,
Brevet captain and secretary of State.

Major R. ALLEN,
Treasurer, &c., San Francisco, California.

STATE DEPARTMENT OF CALIFORNIA,
Monterey, October 11, 1849.

SIR: I am directed to acknowledge the receipt of your letter of September 30, in relation to hospital dues collected at San Francisco. It is presumed that the new collector who is daily expected will bring instructions touching that subject; but in order to provide for the contingency of the non-arrival of such instructions, a copy of your letter will be forwarded to Washington by the next steamer, calling to it the immediate attention of the government.

Very respectfully, your obedient servant,

H. W. HALLECK,
Brevet captain and secretary of State.

E. H. HARRISON, esq.,
Collector, San Francisco, California.

STATE DEPARTMENT OF CALIFORNIA,
Monterey, October 11, 1849.

SIR: I am directed to acknowledge the receipt of your letter of September 30 on the propriety of your transferring the registers of vessels on the sheriff's bill of sale. The Governor can give no direction in this matter, but is of opinion, from what information he can obtain on this subject, that such transfer would, to say the least, be of very doubtful propriety, if not entirely contrary to law.

Very respectfully, your obedient servant,

H. W. HALLECK,
Brevet captain and secretary of State.

E. H. HARRISON, esq.,
Collector, San Francisco, California.

STATE DEPARTMENT OF CALIFORNIA,
Monterey, October 17, 1849.

MAJOR: Captain Kane, on the 15th instant, turned over from the "civil fund" to Major H. Hill the sum of $15,500, and holds Major Hill's receipts to Major Leonard for that amount. Captain Kane will send these receipts to you, in order that you may get from Major Leonard drafts on the pay department for that amount.

The civil fund should not be loaned to the military departments

simply on receipts; drafts on the heads of the departments in Washington should be required in all cases.

Very respectfully, your obedient servant,

H. W. HALLECK,
Brevet captain and secretary of State.

Major R. ALLEN,
Civil treasurer, San Francisco, California.

STATE DEPARTMENT OF CALIFORNIA,
Monterey, October 19, 1849.

SIR: Your letter of the 6th instant has been laid before the Governor, who directs me to say in reply, that the adobic building occupied as the custom-house never has belonged, and does not now belong, to the municipal authorities of San Francisco. It was constructed by the collector of the port of San Francisco out of the proceeds of the customs in California, and was until the treaty of peace the property of the General Government of Mexico. It is now the property of the Government of the United States, and cannot be turned over to the authorities of the town of San Francisco without orders direct from the Secretary of the Treasury, or by an act of Congress.

Very respectfully, your obedient servant,

H. W. HALLECK,
Brevet captain and secretary of State.

Hon'ble J. W. GEARY,
Judge of first instance, San Francisco, California.

HEAD-QUARTERS, TENTH MILITARY DEPARTMENT,
Monterey, California, August 10, 1849.

SIR: You will herewith receive a letter from the alcalde of Santa Barbara, giving information that a Chilian brig, "the Imperial," which put into that place in distress, has been condemned as unseaworthy, and her cargo landed and stored; and that the alcalde has allowed a small portion of these goods to be sold, and now holds the duties on them at the disposal of the Government.

General Riley directs that you immediately proceed to Santa Barbara, and reserve the duties so collected by the alcalde, and also collect the duties and fees that may be due on the ship and balance of her cargo.

It has also been reported that other foreign vessels have recently landed passengers and freights in the ports of Santa Barbara and San Luis Obispo, in violation of the revenue laws of the United States. It will be your duty to inquire into these matters, and take such measures as may be found necessary to enforce the revenue laws, and for this purpose you are authorized to call in the assistance of the local magistrates of those districts. But should you meet on the way, or find at Santa Barbara, the collector or deputy collector, appointed for the ports

on this coast, you will turn the whole matter over to them, and immediately return to department head-quarters.

You will probably find at Santa Barbara, among the custom-house papers, a Mss. copy of the tariff of 1846, but as it may be possible that copy is lost, you will, if possible, procure one at this place, and take it with you as your guide in collecting the duties and fees.

As soon as you have completed these duties, you will immediately return to this post, and bring with you the moneys so collected, which will be paid over, as "civil funds," to the quartermaster at this place.

Very respectfully, your obedient servant,

E. R. S. CANBY,
Assistant adj't general.

Lieut. J. HAMILTON, 3*d artillery*.

And the counsel for the plaintiffs, further to maintain and prove the issue on their part, and that the said moneys were exacted without authority of the Treasury Department of the United States, produced and gave in evidence the circular of the Secretary of the Treasury, as follows:

(No. 21.)

TREASURY DEPARTMENT, *October 7th*, 1848.

On the 30th of May last, upon the exchange of ratifications of our treaty with Mexico, California became a part of the American Union; in consequence of which, various questions have been presented by merchants and collectors for the decision of this Department.

By the Constitution of the United States it is declared, that "all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land." By the treaty with Mexico, California is annexed to this Republic, and the Constitution of the United States is extended over that territory, and is in full force throughout its limits. Congress also, by several enactments subsequent to the ratification of the treaty, have distinctly recognised California as a part of the Union, and have extended over it, in several important particulars, the laws of the United States.

Under these circumstances, the following instructions are issued by this Department:

First. All articles of the growth, produce, or manufacture of California, shipped therefrom at any time since the 30th May last, are entitled to admission free of duty into all the ports of the United States.

Second. All articles of the growth, produce, or manufacture of the United States, are entitled to admission free of duty into California; as are also all foreign goods, which are exempt from duty by the laws of Congress, or on which goods the duties prescribed by those laws have been paid to any collector of the United States, previous to their introduction into California.

Third. Although the Constitution of the United States extends to

California, and Congress have recognised it by law as a part of the Union, and legislated for it as such, yet it is not brought by law within the limits of any collection district, nor has Congress authorized the appointment of any officers to collect the revenue accruing on the import of foreign dutiable goods into that Territory. Under these circumstances, although this Department may be unable to collect the duties accruing on importations from foreign countries into California, yet, if foreign dutiable goods should be introduced there, and shipped thence to any port or place of the United States, they will be subject to duty, as also to all the penalties prescribed by law when such importation is attempted without the payment of duties.

R. J. WALKER,
Secretary of the Treasury.

The counsel for the plaintiffs then rested; and the counsel for the plaintiffs thereupon prayed the court to charge and instruct the jury, as matter of law, as follows:

1. That during the period from the 3d day of February, 1848, the date of the treaty of peace and limits with the Republic of Mexico, and the 3d March, 1849, the date of the act of Congress which erected the State of California into a collection district of the United States, no duties accrue to the United States on merchandise not the production of the United States, nor on vessels not of the United States which arrived within the limits of California, ceded by said treaty to the United States, and that the exaction by the defendant of such alleged duties on such goods imported into California by the plaintiffs within said period was not authorized by any law of the United States, and was therefore illegal.

2. That during the period from the 3d March, 1849, when the act of Congress erected the State of California into a collection district, and the 13th November, 1849, when Collector Collier entered upon his duties as collector of customs at the port of San Francisco, in said district, the exaction of alleged duties to the United States by the defendant was not authorized by any law of the United States, and was therefore illegal, unless the jury shall find that the defendant was legally appointed and qualified to act as collector of the customs at San Francisco.

3. That if the jury shall find that on the 23d February, 1849, the plaintiffs made their written protest against all exactions that then were or thereafter should be made by said defendant, as unauthorized by any act of Congress and illegal, and that moneys then and thenceforward were demanded as alleged duties to the United States by said defendant, and were paid under coercion of military power and duress, and not in pursuance of any law of the United States, that then such exactions were unauthorized and illegal, and the jury must find for the plaintiffs.

4. That if the jury shall find from the evidence that alleged duties

were exacted by the defendant from the plaintiffs between the 3d February, 1848, and the 12th November, 1849, by coercion and duress, and against their remonstrance and protest, that then the plaintiffs are entitled to the customary interest of California upon such exactions.

Whereupon the court, pro forma, then and there charged and instructed the jury in conformity with the following prayers, in conformity with which the defendant's counsel insisted and prayed the court to instruct the jury as matters of law:

1. That between the 3d February, 1848, and the 3d March, 1849, duties did accrue to the United States on foreign merchandise, not the production of the United States, and on foreign vessels not of the United States, which were imported into and arrived within the limits of California as ceded to the United States by the treaty of peace and limits with the Republic of Mexico, signed at Guadaloupe Hidalgo.

2. That after the act of 3d March, 1849, erecting the State of California into a collection district of the United States took effect, duties accrued to the United States, both on foreign merchandise, not the production of the United States, and on foreign vessels, not of the United States imported and brought within the limits of such collection district.

3. That if, from the evidence in the cause, the jury shall find that between the 3d February, 1848, and 12th November, 1849, the plaintiffs were allowed by the defendant to enter their said foreign goods and vessels at another port of the United States within a collection district, and thereafter to land the same at San Francisco without further exaction of duties, and that the plaintiffs neglected so to do, and elected to enter and land the same at San Francisco, and pay duties thereon, and that the duties were paid by defendant to the use of the United States, that then the said payment of duties was voluntary and not coercive, and the jury must find for the defendant.

4. That if the jury shall find that the plaintiffs paid duties to the defendant on foreign merchandise, and on foreign vessels, not of the United States, between the 3d February, 1848, and 12th November, 1849, and that such payments were illegal but voluntary, and made through mistake of law, then the plaintiffs are not entitled to interest upon such exactions, and that upon the whole evidence the payments aforesaid were voluntary and not coercive.

And the court further, pro forma, refused to instruct and charge the jury in conformity with the points insisted upon by the plaintiffs' counsel, and in conformity with which he had prayed the court to charge and instruct the jury as aforesaid.

And the counsel for the plaintiffs then and there excepted to the said charge of the court, and to the refusal of the court to charge the jury in conformity with the points according to which the said counsel had so prayed the court to charge the jury as aforesaid.

And thereupon the jurors of the jury aforesaid found a verdict for the defendant.

And because the said several matters so offered and given in evi-

California, and Congress have recognised it by law as a part of the Union, and legislated for it as such, yet it is not brought by law within the limits of any collection district, nor has Congress authorized the appointment of any officers to collect the revenue accruing on the import of foreign dutiable goods into that Territory. Under these circumstances, although this Department may be unable to collect the duties accruing on importations from foreign countries into California, yet, if foreign dutiable goods should be introduced there, and shipped thence to any port or place of the United States, they will be subject to duty, as also to all the penalties prescribed by law when such importation is attempted without the payment of duties.

R. J. WALKER,
Secretary of the Treasury.

The counsel for the plaintiffs then rested; and the counsel for the plaintiffs thereupon prayed the court to charge and instruct the jury, as matter of law, as follows:

1. That during the period from the 3d day of February, 1848, the date of the treaty of peace and limits with the Republic of Mexico, and the 3d March, 1849, the date of the act of Congress which erected the State of California into a collection district of the United States, no duties accrue to the United States on merchandise not the production of the United States, nor on vessels not of the United States which arrived within the limits of California, ceded by said treaty to the United States, and that the exaction by the defendant of such alleged duties on such goods imported into California by the plaintiffs within said period was not authorized by any law of the United States, and was therefore illegal.

2. That during the period from the 3d March, 1849, when the act of Congress erected the State of California into a collection district, and the 13th November, 1849, when Collector Collier entered upon his duties as collector of customs at the port of San Francisco, in said district, the exaction of alleged duties to the United States by the defendant was not authorized by any law of the United States, and was therefore illegal, unless the jury shall find that the defendant was legally appointed and qualified to act as collector of the customs at San Francisco.

3. That if the jury shall find that on the 23d February, 1849, the plaintiffs made their written protest against all exactions that then were or thereafter should be made by said defendant, as unauthorized by any act of Congress and illegal, and that moneys then and thenceforward were demanded as alleged duties to the United States by said defendant, and were paid under coercion of military power and duress, and not in pursuance of any law of the United States, that then such exactions were unauthorized and illegal, and the jury must find for the plaintiffs.

4. That if the jury shall find from the evidence that alleged duties

were exacted by the defendant from the plaintiffs between the 3d February, 1848, and the 12th November, 1849, by coercion and duress, and against their remonstrance and protest, that then the plaintiffs are entitled to the customary interest of California upon such exactions.

Whereupon the court, pro forma, then and there charged and instructed the jury in conformity with the following prayers, in conformity with which the defendant's counsel insisted and prayed the court to instruct the jury as matters of law:

1. That between the 3d February, 1848, and the 3d March, 1849, duties did accrue to the United States on foreign merchandise, not the production of the United States, and on foreign vessels not of the United States, which were imported into and arrived within the limits of California as ceded to the United States by the treaty of peace and limits with the Republic of Mexico, signed at Guadaloupe Hidalgo.

2. That after the act of 3d March, 1849, erecting the State of California into a collection district of the United States took effect, duties accrued to the United States, both on foreign merchandise, not the production of the United States, and on foreign vessels, not of the United States imported and brought within the limits of such collection district.

3. That if, from the evidence in the cause, the jury shall find that between the 3d February, 1848, and 12th November, 1849, the plaintiffs were allowed by the defendant to enter their said foreign goods and vessels at another port of the United States within a collection district, and thereafter to land the same at San Francisco without further exaction of duties, and that the plaintiffs neglected so to do, and elected to enter and land the same at San Francisco, and pay duties thereon, and that the duties were paid by defendant to the use of the United States, that then the said payment of duties was voluntary and not coercive, and the jury must find for the defendant.

4. That if the jury shall find that the plaintiffs paid duties to the defendant on foreign merchandise, and on foreign vessels, not of the United States, between the 3d February, 1848, and 12th November, 1849, and that such payments were illegal but voluntary, and made through mistake of law, then the plaintiffs are not entitled to interest upon such exactions, and that upon the whole evidence the payments aforesaid were voluntary and not coercive.

And the court further, pro forma, refused to instruct and charge the jury in conformity with the points insisted upon by the plaintiffs' counsel, and in conformity with which he had prayed the court to charge and instruct the jury as aforesaid.

And the counsel for the plaintiffs then and there excepted to the said charge of the court, and to the refusal of the court to charge the jury in conformity with the points according to which the said counsel had so prayed the court to charge the jury as aforesaid.

And thereupon the jurors of the jury aforesaid found a verdict for the defendant.

And because the said several matters so offered and given in evi-

California, and Congress have recognised it by law as a part of the Union, and legislated for it as such, yet it is not brought by law within the limits of any collection district, nor has Congress authorized the appointment of any officers to collect the revenue accruing on the import of foreign dutiable goods into that Territory. Under these circumstances, although this Department may be unable to collect the duties accruing on importations from foreign countries into California, yet, if foreign dutiable goods should be introduced there, and shipped thence to any port or place of the United States, they will be subject to duty, as also to all the penalties prescribed by law when such importation is attempted without the payment of duties.

R. J. WALKER,
Secretary of the Treasury.

The counsel for the plaintiffs then rested; and the counsel for the plaintiffs thereupon prayed the court to charge and instruct the jury, as matter of law, as follows:

1. That during the period from the 3d day of February, 1848, the date of the treaty of peace and limits with the Republic of Mexico, and the 3d March, 1849, the date of the act of Congress which erected the State of California into a collection district of the United States, no duties accrue to the United States on merchandise not the production of the United States, nor on vessels not of the United States which arrived within the limits of California, ceded by said treaty to the United States, and that the exaction by the defendant of such alleged duties on such goods imported into California by the plaintiffs within said period was not authorized by any law of the United States, and was therefore illegal.

2. That during the period from the 3d March, 1849, when the act of Congress erected the State of California into a collection district, and the 13th November, 1849, when Collector Collier entered upon his duties as collector of customs at the port of San Francisco, in said district, the exaction of alleged duties to the United States by the defendant was not authorized by any law of the United States, and was therefore illegal, unless the jury shall find that the defendant was legally appointed and qualified to act as collector of the customs at San Francisco.

3. That if the jury shall find that on the 23d February, 1849, the plaintiffs made their written protest against all exactions that then were or thereafter should be made by said defendant, as unauthorized by any act of Congress and illegal, and that moneys then and thenceforward were demanded as alleged duties to the United States by said defendant, and were paid under coercion of military power and duress, and not in pursuance of any law of the United States, that then such exactions were unauthorized and illegal, and the jury must find for the plaintiffs.

4. That if the jury shall find from the evidence that alleged duties

were exacted by the defendant from the plaintiffs between the 3d February, 1848, and the 12th November, 1849, by coercion and duress, and against their remonstrance and protest, that then the plaintiffs are entitled to the customary interest of California upon such exactions.

Whereupon the court, pro forma, then and there charged and instructed the jury in conformity with the following prayers, in conformity with which the defendant's counsel insisted and prayed the court to instruct the jury as matters of law:

1. That between the 3d February, 1848, and the 3d March, 1849, duties did accrue to the United States on foreign merchandise, not the production of the United States, and on foreign vessels not of the United States, which were imported into and arrived within the limits of California as ceded to the United States by the treaty of peace and limits with the Republic of Mexico, signed at Guadaloupe Hidalgo.

2. That after the act of 3d March, 1849, erecting the State of California into a collection district of the United States took effect, duties accrued to the United States, both on foreign merchandise, not the production of the United States, and on foreign vessels, not of the United States imported and brought within the limits of such collection district.

3. That if, from the evidence in the cause, the jury shall find that between the 3d February, 1848, and 12th November, 1849, the plaintiffs were allowed by the defendant to enter their said foreign goods and vessels at another port of the United States within a collection district, and thereafter to land the same at San Francisco without further exaction of duties, and that the plaintiffs neglected so to do, and elected to enter and land the same at San Francisco, and pay duties thereon, and that the duties were paid by defendant to the use of the United States, that then the said payment of duties was voluntary and not coercive, and the jury must find for the defendant.

4. That if the jury shall find that the plaintiffs paid duties to the defendant on foreign merchandise, and on foreign vessels, not of the United States, between the 3d February, 1848, and 12th November, 1849, and that such payments were illegal but voluntary, and made through mistake of law, then the plaintiffs are not entitled to interest upon such exactions, and that upon the whole evidence the payments aforesaid were voluntary and not coercive.

And the court further, pro forma, refused to instruct and charge the jury in conformity with the points insisted upon by the plaintiffs' counsel, and in conformity with which he had prayed the court to charge and instruct the jury as aforesaid.

And the counsel for the plaintiffs then and there excepted to the said charge of the court, and to the refusal of the court to charge the jury in conformity with the points according to which the said counsel had so prayed the court to charge the jury as aforesaid.

And thereupon the jurors of the jury aforesaid found a verdict for the defendant.

And because the said several matters so offered and given in evi-